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Annual Report of the Correctional Investigator

1994 - 1995



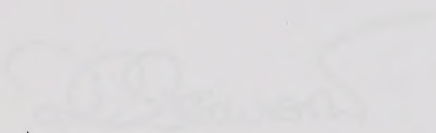
Annual Report of the Correctional Investigator

The Honorable Mr. Justice
Antonio Gauthier, Clerk of the
House of Commons
Ottawa, Ontario

Dear Mr. Minister:

In accordance with the provisions of section 13.1 of the Access to Information Act, I am pleased to provide you with the annual report of the Correctional Investigator for the period from April 1, 1994 to March 31, 1995.

Yours faithfully,



J. B. Brown
Correctional Investigator

7-1111-1111 (1-800-967-0808) ext. 1111

1994-1995

Annual Report
of the
Correctional
Investigator

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The Correctional Investigator
Canada

L'Enquêteur correctionnel
Canada

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June 29, 1995

The Honourable Herb Gray
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Mr. Minister:

In accordance with the provisions of section 192 of the Corrections and Conditional Release Act, it is my duty and privilege to submit to you, the twenty-second Annual Report of the Correctional Investigator.

Yours respectfully,

R.L. Stewart
Correctional Investigator

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INTRODUCTION

I concluded last year's Annual Report with a specific request: that legitimate inmate concerns be dealt with in a responsive and timely fashion. I opened last year's Annual Report by stating that I saw little evidence that areas of legitimate inmate concern were being given the priority which they required.

The Correctional Service of Canada's responses at the national level over the course of this reporting year, whether on individual or systemic areas of inmate concern, unfortunately remain as characterized by this Office in 1992; excessively delayed, defensive and non-committal.

The practice and tradition of this Office has been to attempt to reasonably resolve the concerns of inmates through discussion, review and negotiation with the Service. The reporting of instances to the Minister of delayed, inadequate or inappropriate action on the part of the Service has, traditionally, been through a detailing of the matter within my Annual Report. The effectiveness of this approach, quite obviously, was dependent upon the Service being willing to reasonably discuss, review, negotiate and take corrective action on concerns raised by this Office in a relatively responsive and timely fashion. The will of the Service, especially at the National Headquarters level, to reasonably address inmate concerns during this past year has been at best sporadic.

This continuing situation of excessive delay, defensiveness and non-commitment has in effect negated the Commissioner's level as a dependable point of resolution for either individual or systemic areas of inmate concern. As such I, for the first time since the enactment of the current legislation, referred seven cases to the attention of the Minister this year under Section 180 of the *Corrections and Conditional Release Act*:

180. *Notice and report to Minister*

If, within a reasonable time after informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of a problem, no action is taken that seems to the Correctional Investigator to be adequate and appropriate, the Correctional Investigator shall inform the Minister of that fact and provide the Minister with whatever information was originally provided to the Commissioner, or the Commissioner and the Chairman of the National Parole Board, as the case may be.

I as well made a Special Report on the Prison for Women in February of this year pursuant to Section 193 of the *Corrections and Conditional Release Act*:

193. *Urgent Matters*

The Correctional Investigator may, at any time, make a special report to the Minister referring to and commenting on any matter within the scope of the function, powers and duties of the Correctional Investigator where, in the opinion of the Correctional Investigator, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for the submission of the next annual report to the Minister under Section 192, and the Minister shall cause every such special report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it.

I have included as Appendixes A and B to this Report copies of both the Section 180 referral letters and the Special Report, inclusive of the Response by the Correctional Service.

The *Corrections and Conditional Release Act*, which came into effect in November of 1992, clearly established both the independence and mandate of this Office within a legislative framework consistent with that of an Ombudsman. The observations and recommendations of this Office, in keeping with the traditional function of an Ombudsman, are

not binding. The Office's authority and effectiveness lies in its ability to thoroughly and objectively investigate a wide spectrum of administrative actions and present its observations and recommendations to an equally broad spectrum of decision-makers, who in turn can cause reasonable corrective action to be taken if earlier attempts at resolution have failed.

I stated in my 1992-93 Annual Report that the reporting provisions of Sections 180 and 193 of the Act were important and necessary elements within a non-binding resolution process. I as well stated at that time, that while these reporting provisions were essential, it must be kept in mind that the primary function of this Office was not to "report" but rather to facilitate the resolution of inmate concerns. It was within this context of facilitating resolution, of both systemic and individual concerns, that I believed the legislation would be of assistance. Assistance, not only in providing specific direction and momentum to this Office's activities, but assistance in providing more direction and momentum to all those charged with the responsibility of ensuring that offender problems are addressed in a fair and timely fashion.

Although current direction and momentum would not on the face of it support my position, I do believe that within the existing framework, the possibility of reasonable resolution exists. I invite all those responsible for ensuring that offender concerns are addressed in a fair and timely fashion, to turn their attention to the specifics of this Office's observations and recommendations rather than approaching these Issues in vague global and futuristic terms. The future for federal corrections, given the current excessive level of overcrowding, is being formed now.

I have, in light of the limited progress made over the course of this reporting year, reproduced the text from last year's Annual Report on those long-standing systemic Issues which remain under review. I continue to believe that an understanding and appreciation of the impact and evolution of these Issues, inclusive of the Service's past comments and commitments, is important if a resolution is to be achieved. I further believe that if common ground is going to be found there is a need to move away from a process which has tended in the past not only to polarize positions but has also unreasonably expanded and clouded the central focus of the Issues at question.

I have, as such, in the concluding section on each of the Issues, in this year's Report, rather than simply presenting a restating of previously defined positions, attempted to identify the specific areas of concern associated with the Issue as well as those specific matters which need to be clarified or addressed if a reasonable resolution is to be achieved. I have further in an attempt to provide both a balanced and detailed reporting on the actions taken with respect to these Issues, and to satisfy the provisions of Section 195 of the *Corrections and Conditional Release Act*, included as Appendixes C and D, this Office's Working Paper: Annual Report 1994-95 and the Commissioner's Comments on the Working Paper.

I hope that this refocusing on the specifics of the Issues will be of assistance in ensuring not only that these systemic concerns are addressed but that individual inmate concerns, associated with these Issues, can be dealt with in a timely and responsive fashion.

STATISTICS

TABLE A

COMPLAINTS RECEIVED AND PENDING-BY CATEGORY

Administrative segregation	
a) Placement	361
b) Conditions	143
Case preparation	
a) Parole	339
b) Temporary absence	62
c) Transfer	397
Cell effects	339
Cell Placement	139
Claims	
a) Decisions	74
b) Processing	61
Correspondence	85
Diet	
a) Medical	47
b) Religious	12
Discipline	
a) ICP decisions	30
b) Minor court decisions	19
c) Procedures	125
Discrimination	16
Employment	197
Financial matters	
a) Access	77
b) Pay	211
Food Services	22
Grievance procedure	197
Health care	
a) Access	320
b) Decisions	300
Information	
a) Access	65
b) Correction	212
Mental health	
a) Access	64
b) Programs	10
Other	213
Penitentiary Placement	109
Private family visits	244
Programs	195
Request for information	368
Sentence administration	90
Staff	254
Security Classification	44
Temporary absence decision	87

TABLE A (Cont'd)

COMPLAINTS RECEIVED AND PENDING-BY CATEGORY

Telephone	92
Transfer	
a) Decision	362
b) Involuntary	268
Use of force	44
Visits	288

Outside Terms of Reference

Parole Board decisions	162
Outside court	18
Provincial matter	<u>37</u>

Total	6799
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TABLE B**COMPLAINTS-BY MONTH**

1994

June	670
July	532
August	425
September	730
October	568
November	609
December	564

1995

January	535
February	471
March	445
April	690
May	<u>560</u>

Total	6799
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TABLE C**COMPLAINTS BY REGION**

	1993					
	April	May	June	July	Aug.	Sept.
<u>MARITIMES</u>						
Atlantic	27	16	20	15	9	25
Dorchester	17	12	15	15	8	30
Springhill	11	14	24	18	6	45
Westmorland	8	7	1	1	2	8
Provincial	1	1	1	0	0	2
<u>ONTARIO</u>						
Bath	4	2	4	2	1	7
Beaver Creek	1	4	8	3	2	3
Collins Bay	36	21	20	22	23	15
Frontenac	13	2	3	11	2	5
Joyceville	9	31	27	29	16	45
Kingston Penitentiary	20	63	43	43	10	41
Millhaven	42	9	23	26	7	8
Pittsburgh	0	1	1	2	0	0
Prison for Women	27	53	29	36	25	6
Regional Treatment Center	1	5	2	1	0	1
Warkworth	23	86	35	29	30	69
Provincial	3	5	7	1	6	7
<u>PACIFIC</u>						
Elbow Lake	0	3	0	3	6	0
Ferndale	0	1	0	2	0	2
Kent	36	9	5	25	8	38
Matsqui	2	4	4	15	3	16
Mission	11	4	1	14	9	31
Mountain	5	6	9	10	6	9
RPC Pacific	6	0	1	4	1	3
William Head	2	4	1	6	5	6
Provincial	0	0	1	0	0	0

TABLE C

COMPLAINTS BY REGION

1993			1994			<u>TOTAL</u>
Oct.	Nov.	Dec.	Jan.	Feb.	March	
26	19	33	32	16	3	241
21	13	23	14	18	9	195
12	10	13	16	12	6	187
4	4	13	3	1	4	56
4	4	0	2	0	0	15
33	7	8	10	1	14	93
21	2	1	3	3	1	51
10	30	14	9	15	20	235
2	13	1	9	1	5	67
17	15	18	20	36	12	275
30	68	22	30	11	1	382
28	20	16	8	8	27	222
2	2	2	3	2	2	17
32	28	15	5	26	5	288
4	8	6	5	3	3	39
29	39	82	47	33	99	601
5	2	9	7	5	4	61
0	1	1	0	7	3	24
1	1	1	0	7	1	16
5	10	10	14	59	5	224
2	2	3	6	4	2	63
8	6	9	6	16	5	120
4	4	8	3	11	8	75
2	1	4	2	16	6	46
2	6	8	11	17	5	73
0	1	0	0	1	1	4

TABLE C (Cont'd)
COMPLAINTS BY REGION

<u>PRAIRIE</u>	April	May	June	July	Aug.	Sept.
Bowden	21	19	21	29	15	17
Drumheller	14	14	11	23	16	4
Edmonton	3	8	5	16	11	4
Oskana Centre	0	0	0	0	0	0
Riverbend	0	4	0	4	1	2
Rockwood	3	1	1	1	0	0
RCP Prairies	7	10	3	29	1	4
Saskatchewan Penitentiary	9	12	2	10	3	3
Special Handling Unit	6	12	7	14	0	2
Stony Mountain	24	6	7	30	9	5
Provincial	2	2	0	4	2	1

QUEBEC

Archambault	35	9	31	18	23	19
Cowansville	31	15	28	15	11	34
Donnacona	29	16	20	37	13	26
Drummondville	16	15	28	6	26	23
FTC	15	8	14	20	11	13
La Macaza	33	15	22	19	17	22
Leclerc	45	49	24	13	28	16
Montée St. François	6	2	9	4	4	5
Ogilvy Center	0	0	0	0	0	0
Port-Cartier	29	16	17	12	48	9
RRC Québec	2	5	4	1	3	0
Special Handling Unit	1	1	5	10	3	1
Sainte-Anne-des-Plaines	12	3	2	13	2	5
Provincial	2	2	2	2	2	2

TOTAL	690	560	670	532	425	730
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TABLE C (Cont'd)
COMPLAINTS BY REGION

1993			1994			
Oct.	Nov.	Dec.	Jan.	Feb.	March	<u>TOTAL</u>
19	19	22	8	44	12	246
21	5	9	10	10	9	146
8	6	16	2	63	6	148
0	0	0	0	0	0	0
23	4	1	0	0	2	41
0	0	0	0	1	0	7
22	3	5	1	3	0	88
40	5	6	1	11	9	111
12	7	2	1	9	8	80
1	20	8	3	7	13	133
2	0	1	4	0	1	19
19	14	9	32	19	14	242
8	24	15	18	8	23	230
10	26	50	19	34	14	294
17	25	15	14	32	21	238
10	11	10	13	4	12	141
15	48	17	10	18	18	254
11	25	24	11	15	12	273
12	4	2	4	6	2	60
0	0	0	0	0	0	0
8	24	11	19	6	6	205
2	1	1	1	2	4	26
1	4	4	2	6	2	40
2	2	2	5	6	2	56
0	0	1	3	4	3	23
568	609	564	535	471	445	6 799

TABLE D**COMPLAINTS AND INMATE POPULATION BY REGION**

<u>Region</u>	<u>Complaints</u>	<u>Inmate Population*</u>
Pacific	645	1523
Prairie	1019	2773
Ontario	2331	3860
Quebec	2082	3739
Maritimes	694	1417
CCC and CRC	<u>28</u>	<u> </u>
Total	6799	13312

* The inmate population figures were provided by the Correctional Service of Canada and are those for March 31, 1994.

TABLE E**INSTITUTIONAL VISITS**

<u>Institution</u>	<u>Number of Visits</u>
Archambault	5
Atlantic	14
Bath	4
Beaver Creek	2
Bowden	6
Collins Bay	8
Cowansville	8
Donnacona	9
Dorchester	8
Drumheller	8
Edmonton	7
Elbow Lake	1
Federal Training Centre	6
Ferndale	3
Frontenac	4
Joyceville	9
Kent	6
Kingston Penitentiary	19
La Macaza	6
Leclerc	9
Matsqui	5
Millhaven	6
Mission	5
Montée St. François	4
Mountain	5
Pittsburgh	3
Port Cartier	11
Prison for Women	8
Psychiatric Centre, Pacific	4
Psychiatric Centre, Prairies	4
Reception Centre, Quebec	4
Riverbend	4
Rockwood	2
Saskatchewan Penitentiary	8
Springhill	11
Ste. Anne des Plaines	8
Stony Mountain	3
Warkworth	13
Westmorland	3
William Head	<u>1</u>
Total	254

TABLE F**INMATE INTERVIEWS**

<u>1994</u>	<u>Number of Interviews</u>
June	259
July	111
August	81
September	296
October	132
November	172
December	233
<u>1995</u>	
January	71
February	121
March	150
April	298
May	<u>154</u>
Total	2078

TABLE G**DISPOSITION OF COMPLAINTS**

<u>Action</u>	<u>Number</u>
Pending	265
Beyond Mandate (no action)	186
Premature	1965
Not Justified	791
Withdrawn	326
Assistance Given	849
Advice Given	190
Information Given	1567
Resolved	486
Unable to Resolve	<u>174</u>
Total	6799

TABLE H**COMPLAINTS RESOLVED OR ASSISTED WITH BY CATEGORY**

	<u>Resolved</u>	<u>Assisted</u>
Administrative segregation		
a) Placement	22	45
b) Conditions	19	42
Case preparation		
a) Parole	16	64
b) Temporary absence	7	8
c) Transfer	36	54
Cell effects	63	58
Cell Placement	8	27
Claims		
a) Decisions	3	1
b) Processing	9	6
Correspondence	7	10
Diet		
a) Medical	3	6
b) Religious	3	3
Discipline		
a) ICP decisions	0	1
b) Minor court decisions	0	1
c) Procedures	10	13
Discrimination	0	0
Employment	4	18
Financial matters		
a) Access	12	12
b) Pay	28	12
Food Services	1	1
Grievance procedure	16	39
Health care		
a) Access	42	63
b) Decisions	9	38
Information		
a) Access	12	9
b) Correction	8	20
Mental health		
a) Access	6	7
b) Programs	0	0
Other	13	32
Penitentiary Placement	4	17
Private family visits	25	26
Programs	7	31
Request for information	3	4
Sentence administration	6	9
Staff	10	40

TABLE H (Cont'd)

COMPLAINTS RESOLVED OR ASSISTED WITH BY CATEGORY

Security Classification	1	1
Telephone	13	16
Temporary absence decision	8	12
Transfer		
a) Decision	20	42
b) Involuntary	2	18
Use of force	4	9
Visits	26	26

Outside Terms of Reference

Parole Board decisions	0	5
Outside court	0	2
Provincial matter	<u>0</u>	<u>1</u>
Total	486	849

OPERATIONS

Operationally the primary function of the Correctional Investigator is to investigate and bring resolution to individual offender complaints. The Office as well has a responsibility to review and make recommendations on the Service's policies and procedures associated with the areas of individual complaint to ensure that systemic areas of concern are identified and appropriately addressed. I have included as Appendix E to the Report, a copy of Part III of the *Corrections and Conditional Release Act* which details the mandate afforded this Office.

All complaints received by the Office are reviewed and initial inquiries made to the extent necessary to obtain a clear understanding of the issue in question. After this initial review, in those cases where it is determined that the area of complaint is outside our mandate, the complainant is advised of the appropriate avenue of redress and assisted when necessary in accessing that avenue. For those cases that are within our mandate the complainant is provided with a detailing of the Service's policies and procedures associated with the area of complaint. If deemed necessary, an interview is arranged and the offender is encouraged to initially address the concerns through the Service's internal grievance process. Although we encourage the use of the internal grievance process, we do not insist on its use as a pre-condition to our involvement. If it is determined during the course of our initial review that the offender will not or cannot reasonably address the area of concern through the internal grievance process, or the area of complaint is already under review with the Service, we will exercise our discretion and take whatever steps are required to ensure that the area of complaint is addressed.

The Office is neither an agent of the Correctional Service of Canada nor the advocate of every complainant or interest group that lodges a complaint. The Office investigates complaints from an independent and neutral position, considers thoroughly the Service's action and the reasons behind it, and either endorses and explains that action to the complainant or if there is evidence of unfairness, makes an appropriate recommendation concerning corrective action. The Office over the course of the reporting year received 6,800 complaints; the investigative staff spent 254 days at federal penitentiaries and conducted in excess of 2,000 interviews with inmates and half again that number of interviews with institutional staff.

These numbers are consistent with our operations last year and again have been managed within a decreasing budget.

The areas of complaint continue to focus on those long-standing issues which have been detailed in past Annual Reports. A specific breakdown on areas of complaint, dispositions, institutional visits and interviews is provided in the statistics.

In addition to addressing individual complaints, Section 19 of the *Correctional and Conditional Release Act* requires this Office to review all investigative reports of the Correctional Service of Canada conducted into incidents resulting in the death or serious injury of an offender. Over the course of this year, my staff reviewed in excess of 130 of these investigation reports.

It has been an extremely demanding and at times frustrating year. I will take this opportunity to acknowledge and thank my staff for their tireless efforts in responding to the concerns of those incarcerated in our federal penitentiaries.

CURRENT COMPLAINT ISSUES

The following Section of the Report on Current Complaint Issues provides a detailing of those major areas of inmate concern reviewed with the Commissioner of Corrections during the past year. I have divided each of the individual Issues into three parts: Part a) is a detailing of the Issue as presented in my 1992-93 Annual Report; Part b) provides the status of the Issue as reported by this Office in March of 1994 and; Part c) is the current status of the Issue.

I have chosen this format, in concert with the annexing to this Report of our Working Paper and the Commissioner's comments, for two reasons: first, to provide a detailed overview on the evolution of these long-standing Issues, inclusive of a fair representation of the Service's previous and current comments and commitments; and second, to promote a focusing on the specific areas of concern associated with these Issues in the hope of causing some meaningful action to be taken.

1. SPECIAL HANDLING UNITS

a) 1992-93

These Units are the Service's highest level of security and house those offenders which the Service has judged to be too dangerous to be housed in a maximum-security institution. There are two Special Handling Units, one in Prince Albert, Saskatchewan, the other at Ste-Anne-des-Plaines in Quebec. The combined capacity of the Units is 170 and they currently house 120 offenders.

The Service amended its policy governing the operation of these Units in March of 1990 with the stated objective of creating an environment with programs designed specifically to assess and address the needs of dangerous inmates so as to facilitate their integration in a maximum-security institution.

I commented extensively in my 1989/90 Annual Report on the evolution of these Units and this Office's ongoing concerns with both the concept of separate institutions for these offenders and the operation of the Units themselves. I concluded that Report by stating:

Although I continue to have concerns about the usefulness of the Special Handling Unit concept, I find the current policy as written a positive first step towards meeting the Commissioner's commitment to providing "suitable treatment and programming and a humane environment for violent offenders". I caution that the development of a reasonable policy is a number of steps removed from the implementation of a reasonable program. It must be remembered that the 1979 policy statement on Special Handling Units spoke in terms of establishing facilities and programs for offenders who had been identified as particularly dangerous for the purpose of assisting their re-integration with the main inmate population of maximum-security institutions.

In the 1990s, the Service must not only be willing to objectively evaluate the compliance of the Unit's operations against its stated policy but as well must be willing to objectively evaluate the effectiveness of those operations in meeting its stated objective. The first step in this process will be the Annual Report of the National Review Committee. I look forward to the issuing of this Report and the opportunity to review with the Commissioner its findings and recommendations.

The following year 1990/91 as the Review Committee report had not as yet been issued, my Annual Report re-stated the expectation that the Committee's review would objectively evaluate the compliance of the Special Handling Unit operation against the stated policy and as well objectively evaluate the effectiveness of those operations in meeting the stated objectives of the program.

A draft Special Handling Unit Report was issued by the Service in October of 1991 with the final Report being released in January of 1992. The database within this Report was inconsistent and ill-defined with no substantive analysis or review of the program's effectiveness in meeting the identified needs of the offender population. The Service, in summarizing the Report stated that "as is evident from some of the statistical information contained in the Report, a standardized reporting structure must be developed and agreed upon so that future analysis can be more meaningful".

I noted the inadequacy of the Annual Special Handling Unit Report in my 1991/92 Annual Report and further stated:

The Service, in an attempt to ensure that future analysis in this area is more meaningful, has undertaken to standardize both the reporting structure and statistical information gathered with respect to S.H.U. operations. I have as well been advised that it is the Service's hope that the "next report will be more detailed and of higher quality".

The second Annual Special Handling Unit Report, covering the period April, 1991 through March, 1992 was issued November 20, 1992. The Service with respect to the quality of this Report has stated "that the second Annual Report, while still not meeting all the expectations of the Correctional Investigator, is much improved".

The quality of the Report is peripheral to the central issue which is the quality of the Special Handling Unit program. Our review of this program, which has been shared with both the Deputy Commissioners of Quebec and Prairies, indicates that current operations are little more than a form of long term dissociation. Programming and employment opportunities are limited with little or no evidence of a link between the programming offered and the identified needs of the offender population being served. Restrictions on offender movements and association and staff/inmate interaction, despite the policy pronouncements, remain excessively controlled. The provision of psychiatric and psychological interventions are generally limited to assessments associated with National Review Committee decision-making with little evidence of on-going treatment or programming related to identified needs. The data collection and analysis requirements detailed in the policy are not being met, and the National Review Committee's responsibilities in terms of monitoring and overseeing Special Handling Unit operations are not being fulfilled.

It is not our expectations which need to be met but rather the expectations of Correctional Service Canada's policy. To date the Service, despite earlier commitments, has not objectively evaluated Special Handling Unit operations and it has been three years since the policy change.

I was advised at a recent meeting with the Commissioner that the Third Annual Special Handling Unit Report will be released shortly and it is again the Service's expectation that the Report will be better. The Commissioner has as well advised that Special Handling Unit operations will be the subject of an internal audit during the course of the next year.

b) Status as of March 1994

The Correctional Service of Canada finalized its Internal Audit Report on Special Handling Units in January of 1994. The observations detailed in the Report, in large part, affirm the legitimacy of the concerns raised by this Office over the course of the last three years. The Audit Team has put forth a series of Recommendations calling for:

- a thorough review and analysis of the programming offered within these Units as it relates to the identified needs of the inmate population, and
- the development of specific terms of reference for the National Review Committee to ensure more cohesiveness in the decision-making process and better monitoring of the activities in the Special Handling Units.

I am currently awaiting the comments and action plans from National Headquarters on the Audit Report. I further recommend, in conjunction with ensuring more cohesiveness in the decision-making process, that the Service specifically establish membership for the National Review Committee that reflects the requirement for objectivity and fairness in the decision taken by this Committee.

Until such time as substantive action is taken by the Service in response to these observations and recommendations, Special Handling Unit operations will remain little more than an expensive form of long-term dissociation.

c) Current Status

The concerns raised on complaints by inmates with respect to Special Handling Unit operations centre on two inter-related areas:

First, the ability of the Special Handling Unit to provide employment and programming opportunities in a reasonable and timely fashion which are responsive to the specific identified needs of the inmate population served. Second, the objectivity and fairness of the National Review Committee with respect to its roles both as a decision-making body on individual cases and as the body responsible for the ongoing monitoring and analysis of the Special Handling Unit program.

To address these areas of concern the Service needs to :

- a) specifically identify and catalogue the needs of the Special Handling Unit population and ensure that the employment and programming opportunities available specifically address those identified needs;
- b) clarify the requirement that the National Review Committee, in fulfilling its responsibilities associated with the monitoring and analysis of Special Handling Unit operations, addresses specifically the effectiveness of the programming in relation to its stated objectives;
- c) ensure that the results of this monitoring and analysis are detailed in the Special Handling Unit Annual Report and that that Report is produced in a timely fashion;
- d) establish a National Review Committee with a senior national presence which has and is seen to have the authority and objectivity required to carry out its functions in a fair and responsive manner; and
- e) establish in policy the requirement that the National Review Committee afford inmates the opportunity, as part of the decision-making process, to meet with the Committee.

The Service has recently committed to reducing the number of inmates housed within the Special Handling Unit and plans to centralize its operation at one institution. As such, the timing would appear to be right for immediate action to be taken on the above-noted areas.

2. INMATE PAY

a) 1992-93

I initially raised the issue of inmate pay in my 1988/89 Annual Report and recommended at that time that an across-the-board increase be implemented to offset the erosion of the offender's financial situation. I further noted that this erosion impacted not only on the offender's ability to purchase internally, but as well reduced the funds available on release.

I concluded last year's Annual Report by noting that the number of complaints in this area had increased, that the situation previously noted had grown progressively worse and called again for an immediate, meaningful adjustment to inmate pay levels.

Following a meeting in April of last year with the former Commissioner to review the issue of inmate pay, I wrote Mr. Ingstrup stating:

As I am sure you are aware, for many offenders it is costing them more per day for tobacco than they are earning in a day through employment. We have been advised by both offenders and staff that the situation has significantly increased tension and illicit activity within institutions.

We are also advised that more offenders are in debt to other offenders, more offenders are seeking protection as a result of being in debt, and illicit activities such as brew making, drug trafficking and loansharking are on the rise.

It is a basic economic fact that if money is not available from legitimate sources, individuals are forced to deal with or become part of a considerably less legitimate black market economy. I fear that if this situation is not immediately addressed, there will be an increase in unrest within institutions which are already suffering from the tensions of overcrowding. Consequently, I recommend that immediate action be taken to ensure that offender pay scales reasonably reflect the cost of living within the institutions.

I again, for the fifth year running, recommend that immediate action on this matter be taken.

b) Status as of March 1994

The Correctional Service of Canada has all along been strongly in support of a pay increase and sought and received approval from Treasury Board to implement a new pay system, with an increase in pay rates for most inmates. However, in response to public resistance a decision was taken, despite the Service's expressed "sensitivity to the issue of pay for inmates", that there would be no rate increase during this fiscal year.

There has not been a meaningful adjustment to inmate pay rates for a decade. The number of complaints received by this Office related to pay and employment issues continues to increase. The associated institutional problems beyond the erosion of the inmate's purchasing power and ability to save for release are detailed in the above letter to the former Commissioner of Corrections.

A linking of the long overdue upward adjustment of inmates pay rates with the current economic situation and freeze on public service wages creates a difficult position to defend. I can only recommend that the issue be re-examined with a view to resolving the erosion of the inmates' financial situation.

c) Current Status

There has been no thorough re-examination of this Issue. I am fully aware of the considerations for "policy making in the 1990s" referenced by the Commissioner. I am also aware of the legitimacy of the concerns raised by inmates on the erosion of their financial situation over the past decade.

These concerns are two fold. First is the impact on institutional operations. If remuneration for authorized activities is inadequate other avenues of income will obviously be found to finance day to day living. Inadequate pay levels promote and maintain an illicit underground economy within institutions.

The second area of impact is on the inmate's release. Again, if remuneration is inadequate, it is unreasonable to expect inmates to be able to save sufficient monies for their eventual release. There is no benefit to be derived from releasing inmates without adequate funds to support their reintegration.

The Service's responses on this issue over the past decade, while acknowledging the erosion of the inmate's financial situation, have shown no evidence of will to address the matter.

There is a need for an immediate across-the-board increase on inmate pay levels. There is further a need for the Service to initiate a thorough examination of the impact of inmate pay on both institutional operations and conditional release.

3. GRIEVANCE PROCESS

a) 1992-93

This Office has long had concerns with the operation of the Correctional Service of Canada's internal grievance process. The effectiveness and credibility of any levelled redress mechanism is dependent upon a combined front end process which is capable in a participative fashion of thoroughly and objectively reviewing the issue at question, and a final level within the process which has the courage to take definitive and timely decisions on those issues referred to its attention for resolution. As I have said before, in my opinion the current difficulties with the process are related less to its structure and procedures than to the commitment and acceptance of responsibility on the part of those mandated to make the process work.

With respect to the matter of management commitment and the acceptance of responsibility in making the process work, the former Commissioner in commenting on the Service's obligation to ensure that offenders were provided with an effective avenue of redress, said in February of 1990, "the timeliness of our responses will be seen - quite correctly - as a real indicator of the importance we place on resolving offender complaints".

I recommended in my 1990/91 Annual Report that the Service produce quarterly reports, regionally and nationally, on grievance decisions so as to ensure a degree of consistency in the Service's interpretation and application of its policies in response to the concerns raised by offenders.

I was advised in March of 1992 that the Service "did not support the development of separate reporting mechanisms for specific issues and that it intended to address the recommendation on a broader scale by introducing an automated reporting system which would permit identification and analysis of deficiencies which may emerge through the grievance system". The system was to be "on line by June 1, 1992" and provide Correctional Service Canada with "the capacity to detect inconsistencies in the interpretation of policies".

I was advised at a recent meeting with the Commissioner that the system is now "scheduled to be on line by the summer of 1993".

The grievance process, despite years of internal review and past commitments, displays, at the national level, little if any evidence of effective management of the system or management commitment to the system. Grievance responses continue to be delayed well beyond the prescribed time frames of the policy and the thoroughness and objectivity of the reviews undertaken in many instances is wanting. The automated reporting system has yet to come on line and as such, the process continues without the capacity to provide relevant information on its own operations or management with on-going information capable of identifying inconsistencies concerning the interpretation and application of the Service's policies.

The *Corrections and Conditional Release Act* requires of the Service the establishment of a "procedure for fairly and expeditiously resolving offender grievances". The current procedure does not meet this requirement.

The process is anything but expeditious, with offender grievances taking up to six months to work their way through the process. The current process as well cannot be seen as directed towards fair resolution; it is rather an adversarial, win-lose exercise played out on a very uneven playing field with the offender having limited input at the higher levels of the procedure.

In conjunction with the primary function as defined by the Act, the inmate grievance procedure should be seen by the Service as an invaluable management tool in identifying specific areas of concern and potential avenues of resolution; it is not. The monthly institutional and regional reports on grievances which are to be submitted to National Headquarters as per Service policy, are not being submitted and there is no evidence of monitoring or analysis of the procedure at the national level.

In conclusion on this matter, I return to my comments of 1989, that improvement in the effectiveness and credibility of this process will only happen when the senior management of the Service accepts responsibility for the operation of the procedure.

As a first step, I recommend that the Service conduct an extensive national audit on the management of the current procedure with a view to not only ensuring that the time frames and reporting requirements are met, but to as well examine the thoroughness and objectivity of the current procedure and the level of credibility it currently holds with the population it is intended to serve.

b) Status as of March 1994

The above recommendation that the Service conduct an extensive national audit on the management of the grievance system was not acted upon.

The Service acknowledges that "certain problems" exist with the current redress system and has initiated a high levelled review process mandated to "make recommendations for a re-designed process". I agreed, given the importance this Office places on the Inmate Grievance process, to participate as an advisory member of the Steering Committee for the Redress Review Team.

Although I note that this is the third major review of the grievance process in five years, I applaud this particular initiative and am impressed with the determination of the group involved to remedy the present situation and come up with an effective solution.

In the meantime, the number of complaints received by this Office specifically related to excessively delayed processing of grievances during this reporting year has increased from 165 to 258. The number of inmates approaching our Office prior to attempting to resolve their concerns through the grievance process has doubled. Confidence in the procedure's ability to reasonably and in a timely fashion address concerns has been seriously eroded. The grievance process which I characterized last year as failing to meet the requirements of the *Corrections and Conditional Release Act* in terms of "fairly and expeditiously resolving offender grievances", has become bogged down at the Commissioner's level. Inmates are currently waiting six to eight months for responses from the Commissioner's level which by policy are to be responded to within ten working days. The Commissioner assures me however, that he is committed to finding a way to reduce the delays in response time.

c) Current Status

The Inmate Grievance Process despite years of internal review and past commitments, continues to show little evidence of being effectively managed.

The review process initiated in December of 1993, mandated to make specific recommendations to the Service's Senior Management for a redesigned procedure has to date produced no policy or procedural changes to the system.

The automated reporting system has yet to come on line and as such the process continues without a capacity to provide relevant information on its own operations or provide management with ongoing information capable of identifying inconsistencies concerning the interpretation and application of the Service's policies.

The Commissioner recently stated that the average number of days to respond to a third level grievance is now 50-60 days, down from 100-200 days. The policy requirement on third level responses is 10 working days. I was advised in March of 1993 that the turn around time for cases at the third level averaged 47 calendar days. In the absence of any ongoing reporting system, it is very difficult to get an accurate reading on whether any progress has been made in this area.

Without accurate ongoing information on the system's operations it cannot be reasonably managed. The first step, in advance of any policy or procedural changes, is to establish an information base for management so an evaluation can be done on the effectiveness of the current process on meeting its stated objectives.

4. CASE PREPARATION AND ACCESS TO PROGRAMMING

a) 1992-93

This issue was initially raised in my 1988/89 Annual Report and focused on the increasing inability of the Service to prepare the cases of offenders in a thorough and timely fashion for conditional release consideration. It was evident from our review at that time that a significant number of these delays were directly related to the Service being unable to provide the required mental health assessment and treatment programming in advance of the offender's scheduled parole hearing dates.

I further noted in 1990 that the continuation of this situation impacted measurably on the viability of the system's decision-making process, the efficiency and effectiveness of its existing programs, and the ability of the Service to provide equitable and just treatment to the offender population.

I concluded last year's Annual Report by stating:

although the Correctional Service has acknowledged that there are problems in these areas and has undertaken a number of initiatives designed to address them, the problems continue to exist and the Service has fallen far short of its commitments. This issue would appear to be stalled and needs immediate attention.

The above-noted commitments specific to this issue are:

- a) The implementation of an Offender Management Information System by the Fall of 1992 to alleviate gaps in management's capacity to measure the availability and timely delivery of key offender programs. The current system is not capable of providing management with this information. I am advised the revised system should be on line by the Fall of 1993.
- b) The production of Quarterly Reports on the Use of Waivers/Postponements and Reasons to commence April 1992. The Quarterly Reports were to contain an analysis of the reasons for the delays in presenting cases for conditional release consideration so as to ensure that corrective management action could be taken in a timely fashion. The first Quarterly Report was issued in December of 1992 with no identification as to the reasons for the delays. The second and third Quarterly Reports were issued in January of 1993 and although they identified a broad categorization of reasons for the delays, there was no evidence of analysis or comment as to what, if any, management action was called for to assist in reducing the numbers.

The last Quarterly Report reviewed indicated that 1400 conditional release hearings were either waived or postponed for the period October through December, 1992.

- c) The development and implementation of a Tracking System to provide management with ongoing relevant information on the impact its sex treatment programming was having on conditional release decision making and the results of the Service's efforts at ensuring that "sex offenders were provided the opportunity for assessment and treatment by the offender's parole eligibility dates".

There is no national tracking system capable of providing relevant information in this area. Sex offenders are seldom entering treatment programs in advance of their parole eligibility dates and in many instances, the offenders are fortunate to complete treatment prior to their statutory release dates.

The Quarterly Report for October through December 1992 on Waivers/Postponements shows that close to 500 delays were identified as "needs to complete/continue a treatment or training program prior to the review or hearing".

The Service acknowledges that there is a significant problem in the area of timely case preparation and access to mental health programming. The current state of the Service's information base in this area does not allow for a clear determination of the scope or specific causes of the problems or what management action or direction is needed to reasonably address the problems.

I am advised that an improved offender information system is scheduled for implementation this summer. Until such time as the Service is capable of measuring the availability and timely delivery of key offender programs, their policy development and management decisions in this area will continue to be *ad hoc* and uncoordinated. I again recommend that this issue be given immediate attention.

b) Status as of March 1994

From our vantage point, there has been little progress made on the issues raised by timely case preparation and access to programming. The commitments made by the Service last year detailed above have not been actioned and the state of the Service's information base on this key area continues to not afford for a clear determination of either the scope or cause of the problems at hand or what management action or direction is needed to reasonably address the problems.

Specifically, the automated Offender Management System remains in a state of development; Quarterly Reports on the use of Waivers and Postponements have not been produced over the course of this reporting year, yet the Service continues to claim that timely case preparation is a priority; the development and implementation of a Tracking System designed to provide management with on-going relevant information on the availability and impact of treatment programming in relation to conditional release decision-making has yet to happen; the level of meaningful contact between case management staff and offenders, as reported by both groups, is down; the rate of timely conditional release is on the decline; and the incarcerated population continues to increase.

I was initially advised by the Service in response to last year's Annual Report that "the national implementation of the Intake Assessment process will systematically identify those offenders requiring psychological or psychiatric intervention at the start of their sentence... and would allow the Service to schedule individual offenders based on such factors as time remaining to Parole Eligibility and total program resources... Technical complications related to Release 2 of O.M.S. make it difficult to predict when Intake Assessment will be integrated with O.M.S.... assessment cannot be implemented until early in the new fiscal year". I was later advised that the Service "anticipated that Inmate Assessment could be fully operational by as early as September 1994".

As noted in last year's Report, I was advised in 1991 that "an automated Offender Management Information System designed to alleviate gaps in management's capacity to measure the availability and timely delivery of key offender programs would be implemented by the Fall of 1992".

The key to the Service meeting its primary Corporate Objective and effectively managing its population growth lies in the provision of timely access to programming and case preparation. More than one-third of an inmate's sentence, that period between day parole eligibility and statutory release, is discretionary time. The measurement of the Service's effectiveness in reducing the relative use of incarceration must focus on the actions taken at the front end of an inmate's sentence in preparing the case for conditional release consideration and the timing within the discretionary period that the case is presented for conditional release considerations. There is limited benefit in having cases presented for decision at the back end of the discretionary time period.

The Commissioner has made a point of advising this Office of the rapid expansion of programming launched by CSC in recent years and that increased program capacity in the areas of Substance Abuse, Living Skills and Sex Offender Treatment continues to be a priority. He further advises that the capacity to treat sex offenders has risen to almost 1800 per annum by the end of 1993/94 from less than 200 per annum in 1988. This is all well and good but the issue here is not the proliferation of programs but rather the Services inability to reasonably measure the availability and timely delivery of key offender programs which in turn negates its responsibility to provide equitable and just treatment to the offender population.

It seems that we are keeping a lot of inmates in prison at huge costs to complete programs which could be delivered on the street. The measurement here is not the number of inmates released because eventually they all are, but at what point in their sentence they are released.

As I indicated in the Introduction, I do not believe that in the long run the solution to delayed case preparation lies with the expansion of current institutional capacity or resources. The Service over the years, with the proliferation of institutional programming, has become dependent on this extended period of incarceration, between parole eligibility and statutory release, to provide programming. There appears to be a reluctance on the part of case management staff to give consideration to conditional release as an option until such time as these programs have been completed, many of which could be provided under supervision in the community. The current population increase, caused in part by offenders remaining in institutions to complete programs, has further delayed timely access to these programs which in turn extends the period of incarceration and adds to the population growth.

This cycle of dependency is unlikely to be interrupted until such time as the Service accepts and takes action on the principle that the protection of society is served through the timely re-integration of offenders as law abiding citizens. A continuation of business as usual in this area will promote further population growth and will impact measurably on the viability of the system's current decision-making processes; the efficiency and effectiveness of existing institutional programs and, the ability of the Service to provide equitable and just treatment in a responsive fashion to the inmate population.

c) Current Status

I concur with the Commissioner, "this is a complex Issue which cannot be addressed by an single simplistic solution". It is also an Issue which impacts directly on the Service's ability to effectively manage the inmate population growth. It was precisely because of the complexities and importance of the relationship between access to programming, case preparation and timely conditional release consideration that I recommended a number of years ago that the Service take immediate action to ensure that it had a clear understanding of both the scope and the causes of the problems associated with delays in this areas.

The current state of the Service's information base relevant to this Issue continues to not allow for a clear determination of the scope or specific causes of the problem or identify what management action or direction is needed to reasonably address the problem.

The Commissioner, in January of 1994 following a Focus Group on Accommodation Policies, directed that a review be undertaken to address the question: Why are Incarcerated Numbers Increasing? The specific areas identified for review in addressing this question were: "admissions, releases, waiver rates, National Parole Board concordance rates, paperwork backlog, requirements for release, timing of programming for release and the adequacy of community infrastructure".

I was advised earlier this year that, "for a number of reasons", information relevant to this issue, on admissions, releases, waivers, postponements and concordance rates was not available. I was as well advised that well over one thousand non-violent inmates are currently incarcerated in federal penitentiaries beyond their parole eligibility date, yet no information was provided to explain why.

This continuing lack of information needs to be attended to if the Service is going to reasonably address this issue. I suggest a starting point would be action on the above-noted review directed by the Commissioner in January of 1994.

Until such time as there is substantive progress on this Issue, the Service's efforts at addressing overcrowding will continue to be directed at the symptoms rather than the causes of the problem.

5. DOUBLE BUNKING

a) 1992-93

I have been commenting in my Annual Reports on the negative impact of double bunking on the individual offender and institutional operations since 1984. In that year, there were approximately 700 federal inmates double bunked and Canada's national newspaper ran a headline quoting the then Commissioner of Corrections stating: "Penitentiary Overcrowding Will End By Next July".

In my 1989/90 Annual Report with approximately 1000 federal inmates double bunked, I restated my June 21, 1984 recommendation:

That the Correctional Service of Canada cease immediately their practice of double bunking in segregation and dissociation areas.

I as well restated my specific concern with respect to the impact of double bunking on non-general population offenders given their limited access to programming and employment opportunities and the limitations on their general movement within the institutions which results in extended periods of time being spent in the cell block area.

I was advised by the Commissioner in response to my comments that:

double bunking is not correctionally acceptable and that the Service would continue in its efforts to reduce double bunking by preparing offenders for conditional release in a timely fashion.

In my 1990/91 Annual Report, with 1200 inmates now double bunked, 500 of which were housed in non-general population cells, I recommended that the Service monitor, on an ongoing basis at the regional and national level, both the number of offenders double bunked in non-general population cells and the length of time these offenders are double bunked.

The Correctional Service of Canada rejected this recommendation and said that the monitoring of double bunking would be conducted "through operational reviews and the internal audit process".

In my 1991/92 Annual Report with the number of double bunked offenders now standing at 1700, I again recommended that effective, timely and practical methods of monitoring the double bunking situation be immediately implemented.

I was advised in April of 1992 by the Service that efforts were under way to develop an offender tracking system to identify inmates who are double bunked for any portion of their dissociation time. To date this tracking system does not exist.

In response to our request for copies of the "operational reviews" and "internal audits" on double bunking we were advised in January of 1993 that "there has been no formal audit or operational review of this issue to date, each region has adopted a means of monitoring the use of double bunking and reporting to N.H.Q. A national roll-up is produced monthly".

In summary on this issue:

- there is no tracking system to identify inmates who are double bunked in non-general population cells;
- there has been no operational reviews or internal audits done on the double bunking situation;
- regional reporting of double bunking figures are inconsistent and at times inaccurate;
- the national roll-up and monthly reports reflect the inconsistencies and inaccuracies of the regional reporting process;
- the national double-bunking monthly report is simply a compilation of numbers with no evidence of analysis or review; and
- the number of inmates double bunked, since the Service's commitment in 1990 to reduce these numbers "by preparing offenders for conditional release in a timely fashion" has doubled.

There are currently in excess of 2000 federal inmates double bunked, in some instances three to a cell, which represents more than 20% of the maximum and medium security population. There is no tangible evidence that the Service has acted on my recommendation that "effective, timely and practical methods of monitoring this situation be implemented". This situation continues to demand the immediate attention of the Service, as we have seen the problem is obviously not going to go away by itself.

b) Status as of March 1994

The number of inmates double-bunked nearly doubled between January, 1993 and January, 1994 and now stands well in excess of 3,000. The Correctional Service of Canada, as I noted in the Introduction, has moved from a position two years ago of claiming that double bunking was "correctionally unacceptable" with a commitment to "reduce double bunking by preparing offenders for conditional release in a timely fashion" to a current position of acknowledging double bunking as "a regular accepted practice". There remains no evidence that the Service has taken any reasonable steps in response to my long-standing recommendation that effective, timely and practical methods of monitoring the situation be implemented. In fact, the Service has less reliable information now on double bunking than it did a year ago because they stopped producing their National Monthly Reports in September of 1993 in anticipation of the implementation of Release 2 of the automated Offender Management System.

In May of 1993, the Service's Executive Committee agreed to form a Task Force "to examine short and long-term options to reduce double bunking where possible and to create the most humane accommodation conditions given the current resource restraints". I was advised that the results of the Task Force would be shared with this Office. To date I have seen no results.

The Commissioner chaired a Focus Group on Accommodation Policies in January of 1994. The action plan from the Focus Group called for a Review to be undertaken, within three months, to address the question: "Why are incarcerated numbers increasing?" The areas identified for specific review were, "admissions, releases, waiver rates, National Parole Board concordance rates, paperwork backlog, requirements for work release, timing of programming for release and adequacy of community infrastructure". I look forward to receiving a copy of this Review.

The Service, in response to my specific concerns with the inhumanity of double bunking in segregation, stated in December of 1993 that "CSC strives to avoid double bunking in dissociation. If the Correctional Investigator identifies specific incidents where this is occurring, the Service will take prompt action to try to correct the situation". Not only have I identified specific incidents but a review of their own reports identifies fourteen maximum and medium security institutions with ongoing double bunking in Segregation/Dissociation Units.

c) Current Status

There are approximately five thousand federal inmates currently double bunked in penitentiary cells initially designed to house one individual.

I am encouraged by the Commissioner's recent statement that "the Service recognizes the need to understand as fully as possible the factors contributing to population growth". I am somewhat troubled though by his comment that "experience shows that an exhaustive analysis is far more difficult than the Correctional Investigator implies".

I have never implied that an understanding or analysis of the factors contributing to population growth were easy. I did offer simply as an observation that the state of the Services existing data, or at least that data provided to this Office, does not lend itself to a reasonable analysis as to the specific causes of the excessive increase in population. The first step in moving towards meeting the need of "understanding as fully as possible the factors contributing to the population growth" have been detailed in the proceeding Issue on Program Access and Case Preparation.

On the issue of double bunking, which is obviously a bi-product of excessive population growth, and more specifically on the concerns related to double bunking in segregation, I have been advised recently that the Service "unfortunately" does not record this information any longer. This fact places at serious question both the Service's longstanding claim of concern with respect to the practice of double bunking in non-general population cells and their commitment to effectively monitor this practice to ensure that the negative impacts are minimized.

Given the apparent ignoring of this Issue at the national level, I feel it is necessary to once again restate the obvious; **the housing of two individuals in a secure cell, designed for one individual, for up to twenty-three hours a day, for months on end, is inhumane.** This practice which continues unmonitored, defies not only any reasonable standard of decency but also the standards of international convention.

6. TEMPORARY ABSENCE PROGRAMMING

a) 1992-93

As indicated last year, the problems associated with this program were brought to the attention of the Correctional Service of Canada in June of 1989 and the details were reported in my 1990/91 Annual Report. Basically, the Correctional Service, at that time, committed to undertake a complete analysis on an institution by institution basis on the decline in temporary absences. However, in May 1991 on the basis of statistics for 1990 showing an increase in temporary absences over the previous year, and without the benefit of the complete analysis promised, the Correctional Service decided that there was no longer a problem and considered the issue closed. In March of 1992 *The Report of the Panel Appointed to Review the Temporary Absence Program for Penitentiary Inmates* (Pepino) recommended:

That CSC undertake a complete analysis on an institution by institution basis to ascertain the rates of grants of ETAs and UTAs over the last five years, to ascertain any statistical decline, and the reasons therefore. In addition, CSC should develop a comprehensive database to track variances in the rate of granting TAs and an appropriate framework for analysis on an institution by institution basis of information such as the population profile, when a TA occurs in the offender's sentence and whether a TA is completed successfully.

Shortly thereafter, in April of 1992, we were advised that the Correctional Service did not intend to spend further time examining past statistics on temporary absences and that there were no plans to incorporate temporary absence data into the Service's Correctional Results Reports. A clear rejection of the Pepino recommendation.

I was further advised in April of 1992 that the "Correctional Service of Canada has directed the regions to monitor variations in temporary absence levels and to take remedial action as appropriate". As we continued to receive complaints in this area and it was evident from our review that temporary absence programming was continuing to decline, we asked to see the results of the regional monitoring and to be provided with a detailing of the remedial action taken. We were advised in December of 1992 that "regions do not view the monitoring of this program as a priority".

I am now advised that when the revised Offender Management System is put in place, some time this calendar year, the Service will have more detailed data on temporary absence programming at the institutional level. At that time, the Service intends to undertake a complete system-wide analysis of its temporary absence program.

In summary on this issue:

- a) the recommendation of *The Report of the Panel Appointed to Review the Temporary Absence Program for Penitentiary Inmates* (Pepino) of March 1992 concerning an institution by institution analysis has not been done;
- b) the regional monitoring of variations in temporary absence levels directed by the Service in early 1992 has not been done;
- c) the development of a comprehensive database to track variances in the rate of granting temporary absences (Pepino), has not been developed; and
- d) a complete system-wide analysis of the temporary absence program awaits the implementation of the revised Offender Management System.

I believe that the Service has been running a "smoke and mirrors" campaign around this issue for the past two years. In some institutions between 1987 and 1992 temporary absence programming has been cut in half and the disparity between regional grant rates in some cases is five to one. The Service at best can only speculate as to the reasons for these declines and this disparity.

The *Corrections and Conditional Release Act* has changed the rules of the game for temporary absence programming. Without a sound historical database and understanding of what variables influence its operation, the Service is not going to be in a position to reasonably measure the impact of the changes introduced by the Act on temporary absences.

I am of the opinion that this is an important program which directly contributes to the successful reintegration of offenders back into society and effects measurably the Service's ability to prepare cases for conditional release consideration in a timely fashion. It is a program that far too long has been neglected.

b) Status as of March 1994

I was initially advised by the Commissioner in August of 1993, in response to last year's Annual Report, that a study was being undertaken by the Service focusing on the impact of the *Corrections and Conditional Release Act* on temporary absence programming.

I was subsequently informed in December of 1993 that "the obligation for monitoring the ongoing use of temporary absences is the responsibility of individual Wardens. Given, however, the common concern shared by both the Correctional Investigator and the Correctional Service of Canada... the Service will undertake periodic reviews at either the national or regional levels. Clearly, if information coming from any source suggests particular problems with temporary absences in a certain part of the system, the reviews would target those aspects".

In response to our follow up on the matter of periodic national or regional reviews, the Office was advised in March of 1994 that the Service had no immediate plans to initiate regional or national reviews on temporary absence programming. We were as well advised at that time that "individual institutions will continue to monitor and analyze data on TAs".

We requested of individual institutions the results of their monitoring and analysis. The responses received show little if any evidence of what would be identified as ongoing monitoring or analysis.

The Office continues to receive a significant number of complaints related to temporary absence decisions although from our discussions with the inmate population it is apparent that inmates are becoming acceptant of the declining availability of this program. For evidence of this decline one has only to review the festive season temporary absence data produced by the Service: a decade ago Christmas temporary absences were in excess of 1000; from 1988 through 1992, they averaged around 800; last Christmas there were fewer than 400 temporary absences granted.

On the other hand, the Commissioner advises that although they do not know why a festive season temporary absences went down in 1993/94 that overall the total of temporary absences and unescorted temporary absences and work releases increased by about 4%. We have requested that data and on receipt will examine it carefully because temporary absence programming has traditionally been and should continue to be a key element of the case preparation and re-integration process.

c) Current Status

The Service has done nothing despite its previous commitments to monitor and evaluate the reasons for the decline in the use of the temporary absence programming. The past five years of non-action I fear has placed the viability of this program as an effective element of the conditional release process at serious risk.

Although I acknowledge both the Commissioner's recent apparent recognition of the fact that this Office has raised legitimate questions concerning the decline of this program and his further commitment to launch an evaluation of the temporary absence program in 1995-96, I do so with a keen awareness of the Service's past track record on this Issue.

It must be recognized that the Service has no reliable data base against which to measure its current performance in this area. As such in moving towards an "evaluation" of temporary absence programming the questions of what is meant by evaluation, what methodology is to be employed and for what purpose is the exercise being undertaken need to be clearly addressed by the Service.

7. TRANSFERS

a) 1992-93

As I have indicated previously, transfer decisions are potentially the most important decisions taken by The Correctional Service of Canada during the course of an offender's period of incarceration. Whether it is a decision taken on an initial placement, a decision taken to involuntarily transfer to higher security or a decision taken on an offender initiated transfer application, such decisions affect not only the offenders' immediate access to programming and privileges, but also their potential for future favourable conditional release consideration. There are very few offenders within the federal system who over the course of a year are not affected by a transfer decision. As such, it is not surprising that once again this year, transfer decisions and the processes leading to those decisions represent the single largest category of complaint received by this office.

The Service in 1989 conducted an internal audit of its involuntary transfer process. The audit team made two observations relevant to the earlier concerns expressed by this Office. First, there was a need for increased awareness on the part of both staff and offenders as to the appropriate avenue of redress on transfer decisions. Second, there was a requirement for a more effective quality control mechanisms at the regional and national levels to ensure that the transfer process complied with established procedures and time frames for decision-making.

I called in my 1990/91 Annual Report for the Service to take action on the audit team's comments concerning the establishment of an effective quality control mechanism. I as well recommended in that Report that the Service through its offender grievance procedure, ensure:

- a) that the system is capable of objectively reviewing and issuing a decision on transfer appeals in a timely fashion;
- b) that during the course of its review of individual appeals that it focus not only on the decision taken, but as well, on the fairness of the process leading to that decision; and
- c) that a quarterly report be issued summarizing the review of transfer appeals.

I was advised in March of 1992 that the Service did not support my recommendation and would rather address the issues associated with the transfer process "through the implementation of the Offender Management System in the Fall of 1992". I am now advised that "National Headquarters will be able to monitor inmate transfers directly once Release 2 of the Offender Management System is in place, some time before the end of calendar 1993".

Again, as with the Grievance Process, Case Preparation, Double Bunking, and Temporary Absences, the Service has failed to take reasonable and timely action on a longstanding area of offender concern, in part, because it continues to await the development of an automated Offender Management System. Corrective action in these areas can no longer afford to await the constantly delayed development of this system. Management can no longer afford to use the shortcomings of this system as an excuse for not taking action.

b) Status as of March 1994

Transfer decisions and the process leading to those decisions, as in past years, continues to represent the single largest category of complaint received by this Office and has increased over the course of this reporting year from 719 to 927.

Overcrowding has caused excessive delays in both the processing of transfer applications and the decision-making process itself. The Service's policy of shifting decision-making on voluntary intra-regional transfers from a centralized point at Regional Headquarters to the individual Wardens has further impacted on these delays and has, as well, caused significant inconsistencies in the detail of information provided to inmates in instances where the transfer is denied.

The appeal process on transfer decisions at the Commissioner's level, as mentioned earlier is basically dysfunctional. The delay in the processing and actioning of decisions on intra-regional and inter-regional transfers continues to increase.

Reception Centres in all regions are double bunked and the placement of inmates from these Units to general population institutions following the reception process, given the systemic state of over-crowding, is often delayed, which in turn delays the inmate's access to required programming.

The institutional transfer of general population inmates either laterally or downward in security level for program reasons, are in competition with reception inmates for a diminishing number of cells and their transfers are as well in many instances being excessively delayed.

In conjunction with the above, overcrowding has limited the transfer options available to the Service in response to those inmates seeking protective custody and a greater number of these inmates are as a result being double bunked in long-term segregation units.

I was advised again by the Commissioner in December of 1993 that "regions have put in place monitoring mechanisms to satisfy the internal audit conducted in 1989. The implementation of Release 2 of the Offender Management System will allow for effective monitoring of transfers at the national level".

The 1989 audit stated that there was a requirement for a more effective quality control mechanism at the regional and national levels to ensure that the transfer process complied with established procedures and time-frames for decision-making.

This Office's investigations of inmate complaints related to the transfer process has found little evidence of effective quality control and our specific requests to the regions for the results of their monitoring of the transfer process produced limited responses.

The monitoring of the transfer process at the national level continues to await the implementation of Release 2 of the Offender Management System.

c) Current Status

Transfer decisions and the process leading to those decisions continues to represent the single largest category of complaint received by this Office. The Service's Internal Audit recommended in 1989 the requirement for an effective quality control mechanism at the regional and national levels to ensure that the transfer process complied with established procedures and timeframes for decision-making.

Over the past five years, this Office has commented extensively on the inadequacies of the transfer process and has put forth numerous recommendations in support of the Audit findings in an attempt to ensure:

- a) that the system is capable of objectively reviewing and issuing a decision on transfer decisions in a timely fashion;
- b) that during the course of its review of individual appeals on those decisions that the review focus not only on the decision taken, but as well, on the fairness of the process leading to that decision; and
- c) that a quarterly report be issued summarizing the review of transfer appeals.

The Office was advised in 1991 that the regions had acted on the recommendations of the 1989 Audit Report. We were advised in 1992 that OMS Release 2 would allow for effective monitoring of transfers at the national level and again in 1993, the Office was further advised that transfers were monitored at the institutional level. Three years of smoke and mirrors.

Last year's Annual Report concluded that our "investigation of inmate complaints related to the transfer process has found little evidence of effective quality control and our specific requests to the regions and institutions concerning their monitoring of the transfer process produced limited responses".

The Commissioner's October 1994 response advises that OMS is experiencing problems with the quality of the data being entered... and that it is expected that detailed information concerning transfers will be available during 1995.

Over the course of this reporting year, the Service has implemented additional changes to Commissioner's Directive 540 delegating further decision-making authority for transfers to the institutional level, a process which I characterized in past Annual Reports as negatively impacting on both the efficiency and objectivity of the system. The Office has also witnessed, in response to excessive overcrowding, involuntary transfers to provincial institutions being authorized under exchange of service agreements, an increase in involuntary inter-regional transfers for the purpose of population management and a growing number of inmates being housed in institutions inconsistent with their security classification.

On this latter point, the Auditor General in his recent report indicated that the Service should:

- revise the Custody Rating Scale as soon as possible, using the most current data, to ensure its continuing validity;
- consider including additional factors in the scale to ensure more consistency between inmate security classification system and the provision for accelerated parole review; and
- consider reclassifying inmates more frequently than on an annual basis and place more emphasis on the consistency between security reclassification and other risk assessment decisions such as transfers and parole.

At the time of the Auditor General's review, there were approximately 900 inmates housed in prisons with a security level higher than their individual classification. The absence of accurate up-to-date information on this situation, at the headquarters level, was viewed by the Auditor General as "a very serious problem".

The Service in response to the above, indicated that its Research Branch has been requested to undertake a study on the accuracy and application of the Custody Rating Scale, and the question of consistency or correlation between Accelerated Parole review status and individual inmates' security classification will be examined.

The Commissioner's March 1995 Response with respect to the transfer process advises that "OMS provides information to allow tracking of the inmate transfer process, including the provision of information such as the type of transfer (voluntary/involuntary), date of application, reason, decision, actual date of inmate movement and the outcome of any appeals". The question is: Is this information available at headquarters, is it correlated and analyzed, and what does it show?

As with the previous issues of Case Preparation, Program Access, Grievances, Double Bunking and Temporary Absences, the Service, to address the concerns associated with these matters, needs to clearly identify specifically what they are going to do, how they intend to do it and who is responsible and accountable for getting it done.

8. MANAGEMENT OF OFFENDER PERSONAL EFFECTS

a) 1992-93

The Service undertook a review of its policy on offender personal effects in early 1990 with the intention of developing national guidelines on the management of offender personal property.

In January of 1991, as a result of a number of concerns we had raised in the area, the Office received a copy of the Service's draft policy and guidelines which had been forwarded to the field for consultation. We met with the Service's National Headquarters staff in April of 1991 to provide our further comment on their draft policy.

I stated in my 1990/91 Annual Report that I was hopeful that this initiative would reasonably address some longstanding areas of concern such as:

- the areas of responsibility for lost or damaged personal effects in a double bunked situation;
- the replacement value cost in the settling of offender claims; and
- the inconsistencies in allowable personal effects which had resulted in offenders purchasing effects at one institution only to be advised at another institution that they are not allowed.

I concluded that Report by stating that "although there had been some delay concerning this issue, I was advised that a revised policy, inclusive of national guidelines, is expected to be approved by October of 1991".

I concluded last year's Annual Report on this issue by stating that "as of this reporting date (May, 1992), there has yet to be a policy issued on the matter". As of this report date (March 31, 1993), there again has yet to be a policy issued on this matter. I was advised that a draft Commissioner's Directive is due in May, 1993.

b) Status as of March 1994

I was advised by the Commissioner in August of 1993 that a Commissioner's Directive and Guidelines on this issue would be finalized by October of 1993. I was then informed in December of 1993 that the Service, in accordance with Section 74 of the *Corrections and Conditional Release Act*, had solicited inmate comments on the revised Directive and Guidelines. These comments had been received in early August of 1993 and a finalized Directive and Guidelines were to be sent to Executive Committee for sign-off by January, 1994.

As of the end of this reporting year (March 31, 1994) no Directive or Guidelines have been issued, although it has been rumoured that a Commissioner's Directive could possibly be published by the end of the Summer of 1994.

The Service's review of this policy began in early 1990.

c) Current Status

The Commissioner in March of 1995 advises that the final Commissioner's Directive and Guidelines on offender personal effects have been forwarded for his signature. Although the revised policy and guidelines address many of the initial concerns raised, difficulties continue to surface with respect to inconsistencies in allowable personal effects specifically related to computers.

I have recently been advised that the Service is continuing in its efforts to develop a policy on inmate access to computers in an attempt to "bring more consistency of practice across the country". The Service has been reviewing the matter of inmate effects and computers from a security perspective for in excess of two years. I would hope that a final decision ensuring both reasonable access and consistency on this matter will be taken in the very near future.

9. APPLICATION OF OFFENDER PAY POLICY FOR UNEMPLOYED INMATES

a) 1992-93

The Service in May of 1991 adjusted its pay policy in an attempt to ensure that offenders who were not able to work though no fault of their own were provided reasonable compensation. The policy re-emphasized the Warden's authority to adjust the pay levels of those offenders who were unemployed as a result of accidents, long-term illness or incapacity and those offenders unable to work because no work was available.

As I stated in last year's Annual Report, our review of complaints related to this area indicated that not only was the amended policy not being universally applied, in some instances, the institutions were not even aware of the policy change.

A further memorandum of clarification on this matter was issued from the Service's National Headquarters in December of 1992 and I am as well advised that a revised Commissioner's Directive is scheduled for promulgation in April of 1993. The delay on the part of the Service in ensuring that this policy was implemented, given the situation of the inmate pay issue commented on earlier is, I believe, unreasonable.

b) Status as of March 1994

The Service in responding to the issue in December of 1993 stated:

There has been a long-standing understanding that \$1.60 (a day) is insufficient as an allowance for inmates who are unable to work through no fault of their own. Wardens have been advised to review all such cases regularly, and to use their discretion to increase pay rates where applicable. This is intended as an interim measure until the implementation of Commissioner's Directive 730, Inmate Program Assignment and Pay.

The number of unemployed inmates continues to rise caused in part by the increase in population and the increase in the number of inmates seeking protection and ending up in long-term segregation. The number of inmates continuing to receive \$1.60 a day does not appear to have been affected by the above statement.

Our review of complaints related to pay and employment issues, which have increased significantly over the course of this year, clearly indicates that inmates at \$1.60 a day are not being reviewed regularly for the purpose of increasing pay rates where applicable. The Office has been advised by one region that its Inmate Pay Budget cannot afford to move inmates off the \$1.60 a day pay level even if they are unemployed through no fault of their own.

It would appear, despite the Service's claimed understanding that \$1.60 a day is insufficient as an allowance, that the situation remains as I reported it three years ago.

I recommend, on this issue and in conjunction with the general issue of inmate pay, that a sufficient minimum daily allowance be established and that all inmates regardless of status receive at least that minimum daily allowance. I further recommend, given the excessive delay on this issue, that immediate action be taken.

c) Current Status

Last year's Annual Report, in light of the agreed upon position that \$1.60 a day was an insufficient allowance specifically recommended that:

A sufficient minimum daily allowance be established and that all inmates regardless of status receive at least that minimum daily allowance.

There has been no action or comment by the Service on this recommendation.

There further appears to be a retreat on the part of the Service from its former commitment to review those inmates who are unemployed through no fault of their own for the purpose of increasing their level of pay above the \$1.60 a day mark.

The Issue of unemployed inmates needs to be reviewed in conjunction with the previous Issue of Inmate Pay to ensure that the Service has a coordinated and reasonable pay policy.

10. CRITERIA FOR HUMANITARIAN ESCORTED TEMPORARY ABSENCES

a) 1992-93

This issue as I indicated last year was initially raised with the Commissioner of Corrections in April of 1988 as a result of a number of complaints from offenders who had been denied escorted temporary absences to attend the funeral of a family member. Our investigation of these cases had clearly indicated that the cost of the temporary absence was a significant criterion, and in some cases the only criterion, considered in reaching the decision to deny the absence. We as well determined that the Service had in some instances requested money from the offenders and their families to assist in offsetting these costs.

I concluded in my 1988/89 Annual Report that the practice was without reasonable justification as it not only established a situation within which a conflict of interest was certain to develop, it further created an inequity of access for offenders to this form of temporary absence programming based on geography and finances. The Service in January of 1990 revised its policy in this area removing cost as a factor in reaching such decisions and stated that:

escorted temporary absences for humanitarian reasons shall be granted... unless significant security or case management information exists that is unfavourable to such an absence.

I acknowledged this positive policy change in my 1990/91 Annual Report and cautioned at that time given the time sensitivity of such decisions that there was a need for the Service to ensure that the policy was both understood and implemented at the institutional level. I stated in last year's Annual Report that there is really no appropriate corrective action when an error is made in this area - death and funerals are not re-schedulable - and that we were continuing to receive complaints from offenders whose absences had been denied for reasons inconsistent with the stated policy.

I have again this year received complaints from offenders where the decisions taken have been obviously inconsistent with the policy. I have reviewed this matter, and the specifics of these cases, with the current Commissioner and I recommend at this time that a clarification of this policy be issued to all Wardens by the Commissioner and that this clarification be published in the Offender Rights and Privileges Handbook scheduled for distribution this summer.

b) Status as of March 1994

The Commissioner was concerned with the situation and took action to reinforce the Service's policy in this area by issuing guidelines for Wardens to utilize in granting Escorted Temporary Absences for compassionate reasons.

The guidelines are clear and reasonably reflect the Service's policy. Despite continuing to receive some complaints where the decision taken is inconsistent with the policy, I accept this as inevitable and consider the issue to be resolved.

In those circumstances where we find after investigation that a decision is inconsistent with the policy, I will refer it directly to the Commissioner given the significance of such decisions to both the inmate and family members and the time sensitivity associated with such decisions.

c) Current Status

Last year's Annual Report acknowledged that the Commissioner had taken action on this issue by issuing Guidelines to reinforce the Service's policy on Humanitarian Escorted Temporary Absences. I as well acknowledged in last year's Report that the guidelines were "clear and reasonably reflected the Service's policy", yet I accepted that it was inevitable that decisions would continue to be made inconsistent with the policy and guidelines.

I concluded last year's Report by stating that decisions inconsistent with the Service's policy would be referred directly to the Commissioner. Over the course of this reporting year, a number of Humanitarian Escorted Temporary Absence decisions have been referred to the Commissioner for his review. Unfortunately, the results of those reviews have tended to be excessively delayed, defensive and non-committal.

11. HOSTAGE-TAKING - SASKATCHEWAN PENITENTIARY

a) 1992-93

This incident occurred on March 25, 1991 and resulted in the death of two offenders. I wrote the Commissioner of Corrections August 7, 1991, following our review of the Service's Board of Investigation Report on the incident, requesting further information on four areas detailed in their Investigation Report.

Those four areas, as I indicated last year were:

- a) the decision to use drugs as an item of negotiation;
- b) the availability of audio-visual surveillance devices;
- c) the policy of integrating protective custody offenders into the general population; and
- d) the availability of information related to a previous hostage-taking by one of the perpetrators.

I concluded last year's Annual Report stating that the Commissioner's response to these matters "was not convincing" and that further correspondence had been forwarded from this Office on April 28, 1992 indicating our dissatisfaction with the Service's earlier reply. The content of that April 28, 1992 correspondence is reproduced here:

This is further to our meeting of March 12, 1992 with specific reference to the Board of Investigation Report into the hostage-taking at Saskatchewan Penitentiary and our earlier communications on this matter.

Mr. Stewart requested in his 7 August 1991 correspondence, enclosed, comment on four general issues detailed within the Board of Investigation Report.

The first issue centred on the decision and the timing of the decision by management to use drugs as an item of negotiation and the effect of that decision, given the Board's conclusion, on the Service's long-standing policy that 'drugs shall not be given to inmates as an item of negotiation'.

Hostage-taking within a penitentiary by its very nature poses a 'real threat of death or serious assault', as such we do not understand the qualification of the policy you put forth at page one of the Commissioner's November, 1991 correspondence.

The Commissioner further states that 'the question of the use of medication and the timing of the decision in this incident are ongoing and clarification with the Deputy Commissioners and Wardens will be issued'. When are you expecting this clarification to be issued?

It is recommended, that immediate clarification on this policy matter be issued inclusive of the role of the physician in prescribing drugs during hostage-takings.

The second issue dealt with the availability of audio-visual surveillance devices.

Mr. Stewart initially questioned, given the findings of the Board that 'better use could have been made of outside technical assistance', why there was no corresponding recommendation in the Report to ensure that such assistance was readily available in the future?

The Commissioner indicated that 'rarely is such equipment required on the scene' and consequently, the Board felt that management would draw their own conclusions and take corrective steps accordingly'. I fail to see the logic in this conclusion.

I would think that all institutions would be well advised to take the steps necessary to ensure that when it is required, outside technical assistance is readily available. A recommendation to this effect, to my mind, would have been more advisable than having individual management draw their own conclusions.

The third issue concerned the difficulties associated with the integration of protective custody offenders into the general population at Saskatchewan Penitentiary given the presence of an increasing number of hard core maximum security inmates.

The Board, although indicating that the integration efforts to date had been positive cautioned that this 'is not to say that there are not problems on the horizon'. The Board as well noted the expressed dissatisfaction of both staff and inmates with the growing number of what they termed 'lunatic fringe' arriving at the institution. Mr. Stewart asked, in light of the Board's observations why the Report contained no conclusive comment with respect to the Service's integration policy? The Commissioner, in his response, indicated that the Board did not feel that their mandate included the conducting of an evaluation of the Service's policy in this area.

It was not suggested that the Board of Investigation conduct an evaluation of the Service's integration policy, although a review of the Board's Convening Order and Terms of Reference does not appear to prohibit such an action. It was rather suggested, given the observations and comments of the Board, that there was a need for a review of the policy so as to bring some conclusion to an issue which had obviously raised concern on the part of both staff and offenders.

The fourth issue related to the availability of information at the institution on McDonald's previous hostage-taking at Dorchester Penitentiary.

The institution requested from National Headquarters information on how the previous hostage-taking involving McDonald had been resolved. The Commissioner indicated in his correspondence that what the institution did not have was detailed information about how the administration/crisis managers had handled the incident, how McDonald behaved during the incident, the demands that had been made, or the outcome of the incident. He further states 'that such detailed information would only be available in the inquiries conducted following the incident.

This information may very well only be available in the inquiries conducted following such incidents but this does not answer the question of why this information is not available to those who may need it.

We have reviewed the two packages of documentation faxed to this institution during the course of the hostage-taking in response to the administration's request for information on how the previous incident involving McDonald was resolved and have the following observations:

- (a) the first package contains no relevant information on the Dorchester hostage-taking of April 1979 other than the one sentence from a report authored in Edmonton in May of 1983 which reads; 'This inmate has a history of hostage-taking at Dorchester Institution where injuries were inflicted on the hostages (staff)';
- (b) the second package appears to be information related to an incident at Millhaven Institution in May of 1980 involving inmate H.D. MacDonald not G.J. McDonald.

It would appear that not only did National Headquarters fail to provide information relevant to the institution's request, it as well provided potentially damaging misinformation on one of the participants.

The Commissioner states in his correspondence that the information which the institution did have on McDonald confirmed his 'involvement in previous hostage-takings at both Dorchester (04/79) and Millhaven Institutions (04/80)'. Would you please provide me with the specific detailings of the incident at Millhaven Institution in April of 1980? Would you as well please provide me with a copy of the Inquiry conducted into the incident at Dorchester in April of 1979?

It is recommended that immediate steps be taken to ensure that detailed information, inclusive of investigation reports, on past hostage-taking incidents is available, on site, to those crisis managers who may need that information.

The Board of Investigation Report into the incident is narrowly focused and inconclusive.

In conjunction with the above requests for specific information I invited any further comment the Service may have on the foregoing which will be incorporated into our final Report on this matter.

A response was received from the Correctional Service of Canada June 10, 1992 providing the following information on the issues raised:

- a) the use of drugs as an item of negotiation; although the Service continued to contradict the findings of its own Board of Inquiry on this matter they stated that "the Commissioner has decided to take specific measures to address this issue... he has approved the design and implementation of a Crisis Management Training Program... one of the thrusts of this program is to provide clarification of our no deals policy".

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- b) the availability of audio-visual surveillance devices; the "Crisis Management Training Program is being designed to deal specifically with issues similar to those raised during this incident and includes an extensive section on the availability and use of these and similar surveillance devices".
 - c) the policy of integrating protective custody offenders into the general population; while attempting to down play the significance of this issue the Service did state that "the Commissioner was also troubled by the concerns raised in this report and he has recently decided to launch a national review of the integration of Protective Custody inmates and the impact of policies governing this process. The findings of this review, which should be completed by January, 1993, will undoubtedly provide us with more accurate information concerning the strengths and weaknesses of our current policies, and allow us to improve our management of this process".
 - d) the availability of information related to a previous hostage-taking by one of the perpetrators; the Service continued, despite the evidence of their own Board of Inquiry, to insist that relevant information was provided in a timely fashion. Their further comments rather than clarifying the specifics of the situation raised further questions on both the relevancy of the information provided and its timeliness.

I followed-up with the Correctional Service on the commitments they had made and the further issues raised in their June, 1992 correspondence. I was advised that the Crisis Management Training Package which was to address the issues associated with "use of drugs as an item of negotiation" and "the availability of audio visual surveillance devices" had not been finalized. The national review, launched by the Commissioner, on the impact of the Service's policies governing the "integration of Protective Custody inmates", had been abandoned in favour of a "fundamental review of violence among inmates". This "fundamental review" is very narrowly focused, centering on three institutions, only one of which has attempted to integrate protective custody offenders. The results of the review, which had very limited distribution within the Correctional Service, make only passing comment on the concerns associated with integration. The review itself, in my opinion, does not fulfil the undertaking given by the Service in June of 1992 to conduct a national review or provide the Service "with more accurate information concerning the strengths and weaknesses of their current policies and allow for improved management of the process". With respect to the issue of "availability of information on past hostage-takings" the Service acknowledged that the "bottom line was that information concerning one of the hostage-taker's involvement in a previous incident was not readily available to those authorities who needed it most". In response to this matter, the Service has "ordered a comprehensive review of the role of the Preventive Security function". I continue to await the results of that review and a clear indication from the Service as to how they will assure that relevant information is available in a timely fashion to those who need it.

The bottom line, two years after the incident, is that there is no tangible evidence that the Service has taken any meaningful corrective action on any of the issues raised.

During the course of this reporting year, through our contact with the surviving hostage-taker, two further issues have been raised. One centres on the subject's claim that he was physically assaulted by Service staff immediately following the incident and the second relates to the potential conflict of interest that existed when the chief negotiator during the hostage-taking incident subsequently became defence counsel for the hostage-taker. These matters have been discussed with senior officials from the Correctional Service of Canada and I am currently awaiting the results of their review.

b) Status as of March 1994

Three years have now passed since the occurrence of this tragic incident. The Service over the course of this reporting year has offered little in the way of substantive comment on the issues raised by the incident itself and the Service's subsequent Investigation.

My comments of last year regarding the quality of the investigation and the Service's actions during the two year period following the Investigation stand.

Although I do not have further information relevant to this matter, I do have a number of continuing concerns. I am concerned with:

- a) the clarity and understanding of the Service's policies related to the use of drugs as an item of negotiation and the role of outside negotiators;
- b) the absence of a comprehensive review on the issues associated with protective custody integration and institutional violence;
- c) the delayed publication of Preventive Security Standards and Guidelines; and
- d) the fact that the Service's Investigation concluded that the surviving hostage-taker suffered no injuries, when a simple review of the subject's medical file would have indicated otherwise.

On a more general and personal basis I am concerned by the approach taken by the Service in addressing this matter. It was never the intention of this Office to point fingers or cast blame. We were not there and I have no doubt that the decisions and actions taken by those responsible for the management of this incident were taken in good faith. It was our intention to cause the Service to thoroughly and objectively review those issues raised by its own Board of Investigation. This never happened.

c) Current Status

The Commissioner in commenting on this Issue in March of 1995 stated; "the Service reported to the Minister on October 3, 1994 that in our opinion, the matter is closed".

This entire Issue and the Service's handling of it speaks more directly to the objectivity and thoroughness of their Investigative Process than it does to the incident at Saskatchewan Penitentiary four years ago.

At the risk of belabouring this Issue and in the hope that some attention can be focused on matters which continue to have relevance to Correctional Service of Canada operations, I offer the following comment on the four areas of concern initially identified.

Hostage Taking Policy

The focus on this issue was the clarity and understanding of the policy in place at the time as it related to the use of drugs as an item of negotiation and the role of outside negotiators. If the policy in these areas is clear and generally understood perhaps the Service could enunciate that policy and relate that policy to what happened at Saskatchewan Penitentiary.

Review of Institutional Violence

The focus here centred on the integration of protective custody and general population inmates. In response to concerns raised by their own Internal Investigation, the Commissioner, in mid-1992, "decided to launch a national review of the integration of Protective Custody inmates and the impact of policies governing this process". As I reported in my 1992-1993 Annual Report, this national review was abandoned without notice or explanation in favour of a "fundamental review of violence among inmates". I further reported that same year that this "fundamental review" was narrowly focused, centering on three institutions only one of which had attempted to integrate protective custody offenders. I concluded in that same Report that the results of this review, which purposely had a very limited

distribution within CSC, made at best only passing comment on the concerns associated with integration and fell far short of fulfilling the undertaking given by the Service to provide an accurate information base from which to manage the process of integration.

As a number of regions, in response to overcrowding, are initiating policies of integrating protective custody offenders into general population institutions, I believe the Service would be very well advised to return to its 1992 undertaking in this area.

Preventive Security Guidelines

This issue centred initially on the non availability of relevant Preventive Security information on one of the hostage takers to those responsible for the onsite management of the incident. Since that time a myriad of concerns associated with the coordination, verification, communication and correction of preventive security information and the role of preventive security officers, have surfaced. The Commissioner's March 1995 Response has established a "target date" of April 30, 1995 for the production of Preventive Security Standards. Whether these Standards in fact address these issues remains open.

Alleged Assault on Hostage Taker

The Commissioner's March 1995 Response states; "The Service did review a television video of the subject shortly after the incident, a photograph shown by Mr. Stewart, and comments made by the negotiator, and concluded that the subject was not assaulted following the hostage-taking."

The issue here, at this late date, is the thoroughness of the Service's Board of Investigation, which concluded that the subject "suffered no injuries", and the objectivity displayed by the Service when confronted with information to the contrary.

The referenced photograph, in the Commissioner's Response, was obtained from the subject's institutional file as was medical information provided to the Commissioner, which clearly indicated that the subject had suffered injuries consistent with an assault. Rather than address the specifics of this information, the Service has waltzed around this issue for the past two and a half years. To my mind, the music stopped playing quite some time ago - on this issue the Board of Investigation was wrong and the Service's follow-up action was at best evasive.

On the overall Issue, I re-state again, it was never the intention of this Office to point fingers or case blame, it was our intention to cause the Service to thoroughly and objectively review those issues raised by its own Board of Investigation. Quite evidently this has not happened.

12. MENTAL INCOMPETENCE

a) 1992-93

I indicated in last year's Annual Report that the issue of representation available to offenders who lack legal capacity pursuant to various provincial statutes governing trusteeship or guardianship was raised with the Service in August of 1991. We then wrote to the Commissioner's office in October of 1991 specifically requesting information on:

- a) the measures taken to adjudge an offenders' capacity to manage his own affairs when it becomes apparent to staff that a problem may exist;

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- b) the offender activities to which such a determination would apply, e.g., personal finances, release planning, etc.;
 - c) the steps taken by the Service to provide for personal representation, under provincial law or otherwise, when the Service determines that incapacity may exist; and
 - d) the procedures undertaken when persons outside the Service inform staff that they suspect an offender could suffer from a mental incapacity.

These matters were subsequently further discussed with Correctional Service officials at meetings in January through March of 1992 at which time the Service undertook to conduct a review of the concerns related to these matters.

I am now advised, as of March 1993 that "discussions with the Correctional Investigator's office will be undertaken to better understand the nature of the Correctional Investigator's concerns related to this issue, its magnitude, and what procedures C.S.C. could adopt to strengthen the current process, aside from usual good case management practices". I look forward to the initiation of these discussions.

b) Status as of March 1994

I was advised in December of 1993, without the Service having fulfilled its undertaking of March, 1993 to hold further discussions with this Office, that "The procedures for mental incompetence remain a provincial matter and vary significantly within each province. CSC is not in a position to consider a national policy until such a time that a uniform Mental Health Act is enacted, however, this is unlikely to occur in the foreseeable future".

I do not agree with the Service's position on this matter. I would have thought that the absence of national direction in this area, the level of mental health problems evident in federal penitentiaries and the fact that uniformity via a National Mental Health Act is not likely in the foreseeable future, would be reasons for the Service to develop a national policy in this area.

c) Current Status

Substantial progress has been made over the course of this reporting year in both focusing the areas of concern associated with this issue and establishing future direction in addressing these matters. The Commissioner's March 1995 Response in part stated:

The issue of incompetence and its repercussions has been listed as an ongoing concern by the Correctional Investigator. Part of the reason for this is that it is identified as a general concern, which may include several issues. It pertains to the legal definition of incompetence, as defined by provincial statutes, and, in the broader sense, the large number of offenders who, while legally competent, are not able to cope successfully with daily life.

As the issue of mental incompetence and adult guardianship are provincial matters guided by complicated and widely varying provincial statutes, there is no simple way to ensure a consistent approach across CSC. There is no uniform approach to mental health in Canada, despite the existence of a draft Uniform Mental Health Act.

The concerns raised may, however, include those offenders who, while legally competent, are not able to manage their daily affairs. For these offenders, CSC has a long-term plan as part of its Mental Health Strategy. As part of the Corporate Operational Plan, the Service plans to build or convert up to 6% of its cell space for the mentally disordered offender. The primary aim of these units is to provide the type of care and assistance outlined in the Correctional Investigator's report.

This Office has recently corresponded with the Correctional Service to further establish specific areas of further consultation and we look forward to a cooperative approach in addressing this difficult yet important Issue.

13. OFFICER IDENTIFICATION

a) 1992-93

The matter of officer identification was a key issue throughout the course of the Archambault Inquiry conducted by this Office in 1984 and a matter that has never been completely settled. I noted in my 1988/89 Annual Report concern that "many staff members were neglecting or refusing to wear their identification badges while on duty."

I wrote the Commissioner in April of 1989 putting forth the position that in this day and age it is totally unacceptable for a public servant, especially a public servant designated as a peace officer, not to be identifiable to the public they serve. I was subsequently advised that the Service had reviewed the issue and taken a decision that where name tags were not being worn they would be introduced upon the issuing of the new Correctional Service of Canada uniforms scheduled for introduction between June and October of 1992. I stated in my 1990/91 Annual Report that I could "not accept as reasonable a further eighteen-month delay in implementing a basic policy decision on an issue initially raised in early 1989."

I am now advised that the new uniforms are expected to be issued by July 1, 1993 and that "Executive Committee members confirmed that, as uniforms are issued, all employees (uniformed and non uniformed) in institutions will be required to wear name tags." The unreasonable eighteen-month delay, previously noted, is now a thirty-month delay on an issue raised in early 1989.

b) Status as of March 1994

A decision was taken by the Service's Executive Committee in May of 1993 that all institutional staff whether uniformed or non-uniformed would be required to wear name tags effective July 1, 1993. Hopefully the matter is resolved.

c) Current Status

A visit to any number of federal penitentiaries provides clear evidence that the policy on the wearing of name tags is not consistently enforced. I therefore recommend that the Commissioner issue a direction on this Issue to ensure consistent application of the Service's policy.

14. DISCIPLINARY COURT DECISION

a) 1992-93

We were contacted during the course of this reporting year by an offender concerning a minor disciplinary court decision and fine. The subject was charged with "wilfully or negligently damaging the property of Her Majesty or the property of another person". The charge stemmed from an incident where the subject after having been provided with a copy of his psychological report to read and sign, wrote on the report his objections to what he felt were inaccuracies and untruths. He was convicted in minor disciplinary court and fined twenty-five dollars. In contacting this office he claimed he had attempted at his hearing to provide an explanation for his action but the chairperson had refused to hear him out.

As part of our investigation of this matter we requested a copy of the minor disciplinary court hearing record. We were advised that the institution did not maintain records of such hearings. I raise this point here because the Service in January of 1990 following a recommendation from this Office in 1988 issued an interim instruction stating that basic information concerning minor court proceedings be recorded via electronic or any other means and retained for a period of two years. The Service officially amended its policy by issuing a revised Commissioner's Directive in August of 1990. The offence at question took place in the fall of 1991.

Relevant to this matter I concluded my 1990/91 Annual Report by stating:

I reported last year that it was quite evident during the time period between the issuing of the interim instruction and the Directive that the communication of the policy change to the institutional level was considerably less than universal. During the course of this reporting year our review of complaints relating to minor disciplinary decisions has indicated that although the policy appears to be known at the institutional level, there exists a wide variance on the quality and content of the records maintained. This inconsistency obviously has an effect on the review of offender complaints on minor court decisions, whether undertaken by the Service's grievance process or this Office and as such, I suggest that the Regional Operational Review process include an analysis of minor court records as an element of its review.

To the best of my knowledge no Regional Operational Reviews have been undertaken in this area.

With respect to the specific complaint at issue, our review raised serious questions as to the legitimacy of the charge and conviction as well as the appropriateness of the fine levied.

The Service has a responsibility "to ensure that offenders are provided with all relevant information in a timely and meaningful manner" which affects the management of their case. This is why the report in question was being shared with the offender. The Service as well has a responsibility to ensure that information contained in its reports is accurate and complete and to provide an avenue through which offender requests for corrections can be made. There is no evidence available to suggest that the subject was advised either prior to his writing on the report or after he started writing on the report as to the proper avenue through which to request corrections.

The fine of twenty-five dollars, was to my mind excessive, representing in excess of one week's wages, and was further inconsistent with the Service's stated purpose of the disciplinary process which is to "be first and foremost corrective" in nature.

This matter was reviewed with both the Warden and the Regional Deputy Commissioner in an attempt to find a resolution. Both officials maintained support for the initial conviction and fine. We wrote National Headquarters on May of 1992 detailing our areas of concern, indicating the matter had been thoroughly reviewed with both the Warden and Regional Deputy Commissioner and requested a further review. We received correspondence from the Assistant

Commissioner, Executive Services in June of 1992 advising that he had reviewed our previous correspondence with the Warden and Regional Deputy Commissioner and he supported their position. He further suggested that if we had any further question regarding the matter we should raise them directly with the Warden and Deputy Commissioner.

I wrote the Commissioner, following our further review of the matter, indicating that in my opinion the charge was unjustified, the conviction unwarranted and the penalty excessive. I further noted the fact that the institution, contrary to the Service's policy and my earlier comments and recommendation, did not have a record of the disciplinary hearing in question.

The Commissioner's response failed to pass reasonable comment or show evidence of a thorough review on any of the issues raised. Following further discussions on this matter with the Commissioner's office we were advised by the Assistant Commissioner, Executive Services, in March of this year that: "I have reviewed the case with everyone concerned. There is no question the fine is heavy. However, the Warden carefully considered the case before making his decision. I support his decision and will not recommend re-opening the case."

Setting aside the issues surrounding the legitimacy of the charge and conviction which have yet to be addressed by the Service, the decision at question was not taken by the Warden, it was taken by a Unit Manager, and careful consideration could hardly have been given by the Warden after the fact because the Service failed to maintain a record of the disciplinary hearing. With respect to having "reviewed the case with everyone concerned" to the best of my knowledge, the inmate was never consulted during the referenced review.

In my opinion the Correctional Service Canada has failed to objectively and reasonably address the issues raised by this case; specifically the legitimacy of the charge itself, the severity of the penalty imposed and the non-maintenance of minor court records contrary to their existing policy. My recommendation that the conviction be quashed and the subject reimbursed his twenty-five dollars has been rejected.

b) Status as of March 1994

The Service has passed no comment on my observations of last year concerning its failure to maintain records of disciplinary hearings.

Section 33(1) of the *Regulations* to the *Corrections and Conditional Release Act* reads:

The Service shall ensure that all hearings of disciplinary offences are recorded in such a manner as to make a full review of any hearing possible.

Despite the *Regulations*, this Office's past comments and the Service's 1990 commitment to ensure that a record of all disciplinary hearings was maintained, this Office continues to encounter cases where an adequate disciplinary record has not been produced and maintained. I therefore recommend that the Service take immediate steps to ensure that all hearings of disciplinary offences are recorded in such a manner as to make a full review of any hearing possible. I further recommend that the Service initiate an Audit of their current disciplinary policies and practices, including those related to punitive dissociation, to ensure that they are in compliance with the provisions of the Act and Regulations.

c) Current Status

The Office was advised in October of 1994 by the Commissioner that Wardens had again been reminded of the requirement to maintain a record of disciplinary hearings.

I recommended last year in response to the increasing number of complaints related to the disciplinary process that:

The Service initiate an audit of their current disciplinary policies and practices, including those related to punitive dissociation, to ensure that they were in compliance with the provisions of the Act and Regulations.

I was advised by the Service in October of 1994 that "a review of the disciplinary process as it related to the regulations is currently being conducted. A report of the findings is expected by October." I have never seen the results of this review.

I was later advised by the Commissioner that a "full scale audit of the process was done in 1992". The Commissioner further stated that it was decided in "December, 1993 that a further review of this function, including examination of the regulations should await use of the process under the CCRA".

This Office has not been able to locate the referenced "full scale audit" and I note that the *Corrections and Conditional Release Act* was enacted thirty months ago.

The bottom line on this Issue is the Service has taken no action on my recommendation from last year.

15. USE OF FORCE - INVESTIGATIONS AND FOLLOW UP

a) 1992-93

The Service's policy in this area as detailed in the Commissioner's Directive defines use of force as:

the physical constraint of inmates by means of physical handling, restraint equipment, chemical agents, authorized spray irritants, batons, water hoses, patrol dogs and firearms.

This same Directives states that:

following an incident where force has been used, an investigation shall normally be ordered by the institutional head or other designated authority.

We noted during the course of reviewing complaints related to the use of force that the Service was not consistently conducting investigations as called for by their policy. We as well noted that even in those instances where investigations were undertaken, there was seldom evidence that the investigating officer had contacted the inmates affected by the use of force or that the recommendations emanating from the investigations had been reviewed and actioned by senior management.

The Service has a responsibility to ensure that use of force incidents are thoroughly and objectively investigated and that corrective action where necessary is implemented in a timely fashion. This matter has been reviewed with senior correctional officials at both the regional and national level and I am advised that amendments to the Service's Security Manual are being proposed. I recommend that amendments ensuring that all use of force incidents are investigated and that those investigations include input from the inmates affected would be best placed within the Commissioner's Directive. I further recommend that the Directive clearly detail senior management's responsibilities in ensuring that investigative reports are thorough and objective and that corrective follow-up action including coordination and analysis at the regional and national level is undertaken in a timely fashion.

b) Status as of March 1994

The Service in response to my recommendation that: "All use of force incidents be investigated and that those investigations include input from the inmates affected", initiated a number of policy and procedural changes in the Fall of 1993:

- Commissioner's Directive 605 Use of Force was amended to read: Following an incident where force has been used, an investigation shall be ordered by the institutional head or other designated authority.
- the Service's Use of Force Report was amended to include a section where the inmate could indicate whether or not they wished to make representation to the Warden, and
- the Service's Security Manual was amended indicating that the Warden's review of the amended Use of Force Report in instances of routine use of force would constitute the required investigation.

Unfortunately, the effect of all this amending has not solved the problem. The amendment to the Security Manual defining the Warden's review of the Use of Force Report as constituting an "investigation" in instances of routine use of force has basically negated the amendment to the Commissioner's Directive calling for an investigation in all cases where force has been used. Virtually, all use of force is now being identified as routine. In addition to this, the amended Use of Force Report is not being used, as such there is no evidence to indicate that inmates are being advised that they can make representations, and we have seen little if any evidence that the Warden's review prior to the determination that the use of force was routine included a consideration of the comments of those inmates affected.

This series of policy amendments, whether intended or not, has done nothing more than entrench past practices in current policy. I do not believe that the Warden's review of the Use of Force Report, amended or otherwise, constitutes an investigation. I further do not believe that the use of force should be approached or characterized as a routine event. I therefore restate my recommendation that all use of force incidents be thoroughly investigated and that those investigations include input from those inmates affected.

The Service has not addressed my further recommendation in this area concerning management responsibility, as such I recommend again that the Directive clearly detail senior management's responsibilities in ensuring that investigative reports are thorough and objective and that corrective follow-up action including coordination and analysis at the regional and national level is undertaken in a timely fashion.

c) Current Status

Last year's Annual Report re-stated the previous year's recommendation that all use of force incidents be thoroughly investigated and that those investigations include input from those inmates affected.

This recommendation was re-stated because the series of amendments offered by CSC the previous year failed to address this Office's observations of two years ago: "that the Service was not consistently conducting investigations as called for by existing policy and in those instances where an investigation was undertaken there was seldom evidence that the inmates affected were interviewed or that the observations and recommendations emanating from the investigation had been reviewed or actioned by senior management".

The Service in responding to the Issue in March of 1995 stated:

We do not share the view of the Correctional Investigator that an investigation, as described by section 19 of the CCRA, is necessary in every instance of the use of force. These investigations are costly and time consuming.

In two years of commenting on this issue, the Annual Report has never put forth the position that use of force incidents must be investigated as described by section 19 of the *Corrections and Conditional Release Act*. In fact, section 19 of the *Corrections and Conditional Release Act* has never been referenced by this Office in terms of use of force investigations. As such, I am at a loss to understand what it is that the Service is referring to or understand the rationale put forth in support of their position.

The Service's response goes on to say "that more and more investigations are being conducted at the informal level following the use of force". I have no idea what constitutes an "informal level of investigation" but I do know that it was the absence of a formal structure within CSC's review of use of force incidents that lead to this Office's initial observations and recommendations in this area. Recent correspondence has again been forwarded to the Commissioner providing further examples of inconsistencies in the Service's management and reporting of these incidents.

In order to reasonably address the concerns raised by this Issue, the Service must ensure that:

- all use of force incidents are thoroughly and objectively investigated, inclusive of input from those inmates affected;
- management is responsible for reviewing the reports and ensuring that corrective follow-up action is taken;
- an information base is maintained regionally and nationally on use of force incidents, type of force used, circumstances, number of injuries, etc., for the purpose of review and analysis to ensure that such incidents are kept to a minimum. (How many use of force incidents occur over the course of a year?).

I fail to understand the continuing reluctance of the Service to ensure that use of force incidents are thoroughly and objectively investigated.

16. INMATE INJURIES

a) 1992-93

The *Corrections and Conditional Release Act* requires that the Service take all reasonable steps to ensure that the "living and working conditions of inmates are healthful and safe." During the course of our investigations into concerns related to inmate injuries it became evident that across the Service, the reporting and investigation of inmate injuries was inconsistent and uncoordinated.

The Report of Inmate Injury form, which we were initially advised "was completed in all cases of injury", was found to be used infrequently in cases of injury other than those related to employment activities. There was further, little evidence of review and coordination of these Reports, when they were completed, at either the institutional or regional levels. Our concerns in this area were reviewed with the Service's National Headquarters' staff in May of 1992.

I have recently been advised that the Service has initiated a number of activities to address this matter including a proposal to develop a "separate Commissioner's Directive on the recording and reporting of offender injuries to provide a clear national framework and expectations on actions to be taken when an inmate incurs an injury whatever the circumstances might be that led to that injury."

I recommend that the Service give this issue priority and I support the development of a separate Directive on Inmate Injuries to ensure that the inconsistencies and lack of coordination of the past are avoided.

On a related matter, the *Corrections and Conditional Release Act* at Section 19(1) requires that:

Where an inmate dies or suffers serious bodily injury, the Service shall, whether or not there is an investigation under section 20, forthwith investigate the matter and report thereon to the Commissioner or to a person designated by the Commissioner.

Section 19(2) further requires that:

The Service shall give the Correctional Investigator, as defined in Part III, a copy of its report referred to in subsection (1).

The Service, despite numerous requests, has yet to provide a working definition of what constitutes "serious bodily injury." The Act came into force November 1, 1992 and to date I have not received any investigative reports from the Commissioner related to inmates who have suffered "serious bodily injury." In fact to date I have not received any reports as required by Section 19 of the Act.

I therefore recommend that the Service take immediate action to ensure that all investigative reports, inclusive of the Commissioner's comments, called for by Section 19 of the *Corrections and Conditional Release Act*, are forwarded to my attention in a timely fashion.

b) Status as of March 1994

I was initially advised in August of 1993, in response to my recommendation supporting the development of a separate Commissioner's Directive on Inmate Injuries to ensure that the inconsistencies and lack of coordination of the past were avoided, that a revised Directive would be issued by the end of December, 1993. I received a draft Directive on the Reporting and Recording of Inmate Injuries in the Fall of 1993 and our comments were provided to the Service. The Office was later advised that a "new draft will be distributed for comment before the end of the year". As of this reporting date, no Commissioner's Directive on Inmate Injuries has been issued.

With respect to the related matter of the Service's responsibilities under Section 19 of the *Corrections and Conditional Release Act*;

- the working definition of what constitutes "serious bodily injury" remains under development,
- all incidents resulting in serious bodily injury, as defined by any reasonable person, are not being investigated as per the requirements of s. 19, and
- the quality of those investigations which this Office has received are in far too many instances inadequate.

I am advised that the Service will initiate a review of its investigative process in the near future and I am in total support of this initiative.

c) Current Status

The central areas of concern associated with this Issue continue to focus on the Service's investigative process and their responsibilities pursuant to Section 19 of the *Corrections and Conditional Release Act*. Last year's Annual Report stated in part:

-
- all incidents resulting in serious bodily injury, as defined by any reasonable person, are not being investigated as per the requirements of s.19; and
 - the quality of those investigations which this Office has received are in far too many instances inadequate.

I am advised that the Service will initiate a review of its investigative process in the near future and I am in total support of this initiative.

The Service's Interim Instruction on Recording and Reporting of Inmate Injuries, issued in July of 1994, provided a definition of serious bodily injury, yet this Office continues to find instances resulting in injuries which would reasonably appear to fall within this definition which are not being investigated pursuant to s.19.

The Interim Instruction as well states that "a copy of the investigation report, together with the response to any recommendations, shall be forwarded through the Deputy Commissioner of the region or the Commissioner to the Correctional Investigator". The Office continues to receive the vast majority of s.19 Investigation Reports absent of any response from the convening authority on the report's recommendations.

To address these areas of concern, there is a need for a clarification of the Service's Interim Instruction to ensure that all instances resulting in death or serious bodily injury are investigated as per the requirements of s. 19 of the *Corrections and Conditional Release Act* and that the investigative reports forwarded to this Office are complete. The Service further needs to ensure that its investigative process, besides being thorough and objective, has at both the regional and national level, the capacity to correlate, analyze and follow up on the results of its investigations in a timely and responsive fashion.

With respect to the Service's review of its investigative process, I was recently advised that a final report has been submitted and that most of the 71 recommendations contained in the report have been accepted. I look forward to reviewing the policy and procedural changes which flow from these recommendations.

17. VISITS TO DISSOCIATION AND DELEGATION

a) 1992-93

The Service in November of 1991 amended the Commissioner's Directive on Dissociation to require the Warden or the Deputy Warden or a person acting in those respective positions to visit the Dissociation area daily and to visit any dissociated inmate upon request by the inmate. During the course of our institutional visits and review of complaints related to Dissociation it was noted that at a number of institutions these visits were not taking place. Following our review of this matter at the institutional and regional levels and having received no consistent assurance of adherence to the policy I wrote the Commissioner of Corrections on August 17, 1992 stating in part "our review of institutional dissociation practices has clearly shown that Wardens or Deputy Wardens are not visiting the area on a daily basis." I requested the Commissioner's comments on the matter and recommended that clarification of this policy requirement be issued.

On November 1, 1992 the *Corrections and Conditional Release Act* became law. The Act at Section 36(2) reads:

The institutional head shall visit the administrative segregation area at least once every day and meet with individual inmates on request.

This performance of duty assigned to the "institutional head" can be delegated to a staff member who is designated by name or position in institutional Standing Orders or Commissioner's Directives. The delegation instrument must be readily accessible to the inmate population.

The *Correctional Service of Canada* issued revised Commissioner's Directives dated November 1, 1992, coincidental with the coming into force of the Act. With respect to the matter of staff visits to Dissociation areas this Directive maintained the previous requirement of daily visits by the Warden or Deputy Warden. There was no provision for further delegation of this duty.

On December 10, 1992, I finally received a response from the Acting Commissioner to my August 17 correspondence which indicated that he was personally opposed to the policy in question and intended to raise the issue at the Services' Executive Committee meeting in January of 1993 with a proposal to delegate the performance of this function to a lower level. The Acting Commissioner concluded by stating: "Given this approach I am not prepared to instruct Wardens at this time to strictly adhere to our previous decision."

This response was totally unacceptable and the matter was further reviewed with the Acting Commissioner. I subsequently received correspondence dated February 11, 1993 stating:

By Executive Committee decision we have delegated the authority in that Deputy Wardens, Assistant Wardens or Unit Managers will make daily visits. The relevant Commissioner's Directive is being amended to be completed within the next month.

Let me be clear, however, on where we stand today. We took the decision at the January executive Committee. The decision is to take effect immediately and Regional Deputy Commissioners were to inform their Wardens.

The Service's practice in terms of staff visits to Dissociation Areas has been in violation of its nationally stated policy since November of 1991. I notified the Commissioner of the existence of this violation in August of 1992 and the Service took no reasonable corrective action. The Service has been in violation of Section 36(2) of the *Corrections and Conditional Release Act* since November 1, 1992. The "Executive Committee decision" of January 1993 does not constitute a delegation as per Section 6 of the Regulations to the Act. The Commissioner's Directive referenced in the Acting Commissioner's correspondence of February 11, 1993 has not been amended. In summary, the Service has knowingly been in violation of its own policy since November of 1991 and the *Corrections and Conditional Release Act* since November 1, 1992 and to date has taken no corrective action.

With respect to the level of delegation, I am of the opinion that to move below the level of Deputy Warden is to negate the intent of Section 36 of the Act, which is to provide offenders with reasonable access to a senior official, who is not part of the regular routine and management of the area, to ensure that timely and effective action can be taken on concerns raised by segregated offenders. As such, I recommend that the existing policy be maintained and implemented.

b) Status as of March 1994

The Corrections and Conditional Release Act, and before it coming into force, the Commissioner's Directive required that the Warden or Deputy Warden visit the administrative segregation area at least once every day and meet with individual inmates on request.

The Service has passed no comment on my observations that they knowingly operated in violation of their own policy (from November, 1991) and the Act (from November, 1992) and took no corrective action until June of 1993.

In June of 1993, the action taken by the Service was to delegate the responsibility for daily visits to the segregation area to the level of Unit Manager. The Commissioner in commenting on the delegation issue stated "that the Executive Committee's decision was to delegate responsibility for visiting dissociation units to a senior manager level. The directive states that this level shall not normally be below the level of Unit Manager". With all due respect to Unit Managers, they are not senior managers. Unit Managers are responsible for the day to day operation of a unit, and the segregation area would be part of that unit. The intent of the legislation was to have a senior manager, not directly responsible for the day to day operation of the area, present and available to the inmate population.

Segregation populations continue to increase, inmates are double bunked, sometimes triple bunked, the requirements for showers and daily exercise are not always being met, the required written psychological opinions on long-term segregation cases are not routinely being done and complaints to this Office concerning segregation conditions and reasons for placement continue to increase. The area requires the daily presence of senior management.

The Warden has the authority to place offenders in segregation, maintain them in segregation or release them from segregation and the authority to facilitate transfers from the institution to alleviate long-term segregation.

Consequently he or the Deputy Warden should be the official to attend daily in segregation and be available to meet with inmates housed there. To delegate to a lesser official negates the intent of section 36 of the Act.

c) Current Status

The Commissioner issued an instruction relevant to this matter December 22, 1994 which reads in part:

I expect Wardens and Deputy Wardens to visit the segregation area at least once a week, unless there are convincing reasons to the contrary. I expect this to be a full visit to include, as a minimum, an inspection of the area, review of logs, meeting with staff, and making oneself available to inmates. I would ask Deputy Commissioners to join me in checking the log when we are visiting institutions to confirm that this is happening. This does not obviate the requirement for a daily visit by a Unit Manager as the CD requires.

In a year's time, I will re-address this matter and, if it remains a troublesome issue, the CD will be changed.

This is a positive direction. The objective of this Office was to ensure the ongoing presence of senior management, as called for by the Act, in the segregation area. The question now is, will the direction be complied with and will the presence of senior management in the segregation area assist in alleviating those areas of concern associated with segregation? In this regard, I am encouraged by the fact that the Commissioner has undertaken to re-address this matter in a year's time.

CONCLUSION

The Service's responses over the course of this reporting year are consistent with their past performances. The responses have avoided the substance of the issues at question including a failure to address the specific observations and recommendations contained in last year's Annual Report. The Responses are defensive, display little if any appreciation for the history or significance of the issues at question and provide at best a further string of endless promises of future action, with no indication as to expected results or how the results of these proposed actions will be measured or analyzed.

The Office has two key areas of focus:

- a) the Correctional Service of Canada's continuing delayed, indifferent responses to concerns, individual and systemic, which are referred from this Office, and
- b) the issue of overcrowding;
 - its impact on the individual inmate and on the Correctional Service of Canada's ability to reasonably and safely manage the population; and
 - its causes, which are to a great extent controllable through the reasonable and timely management of the inmate population.

To ensure that these Issues are reasonably addressed, the Service must begin to turn its attention to the specifics identified within the Annual Reports and cease its current practice of approaching the Issues in an overly generic and isolated fashion. I am hopeful that a focusing on the specifics of the Issues will assist in ensuring not only that these systemic concerns are reasonably addressed but that individual inmate concerns, associated with these Issues, can be dealt with in a timely and responsive fashion.



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December 12, 1994

The Honourable Herb Gray
Solicitor General of Canada
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Dear Mr. Minister,

I am informing you, pursuant to s. 180 of the Corrections and Conditional Release Act (C.C.R.A.), of the fact that the Commissioner of Corrections, within a reasonable time of having been informed of a problem associated with the case of _____ has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

As is evident from the enclosed documentation concerns with respect to the denial of _____ claim were initially referred to the Assistant Commissioner, Executive Services March 16, 1993. This case was then referred by myself to the Commissioner February 3, 1994 as one of thirteen cases which remained outstanding despite numerous follow-up letters from this Office. A response to our March 16, 1993 correspondence was received from the Assistant Commissioner, Executive Services July 12, 1994. Following my review of this response from the Assistant Commissioner, I referred the matter back to the Commissioner, September 7, 1994 as the concerns detailed in our March, 1993 correspondence remained unaddressed. I wrote the Commissioner again October 19, 1994 referencing my September correspondence indicating that a response had yet to be provided. The absence of a response on this matter was further brought to the attention of the Commissioner at a meeting November 8, 1994.

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I have as of this date not received a response from the Commissioner. I am informing you of this situation, as stated above, as a requirement of s. 180 of the C.C.R.A. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by case.

Yours respectfully

A handwritten signature in black ink, appearing to read "R.L. Stewart", with a stylized flourish at the end.

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections



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November 29, 1994

The Honourable Herb Gray
Solicitor General of Canada
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K1A 0A6

Dear Mr. Minister,

I am informing you, pursuant to s.180 of the Corrections and Conditional Release Act, of the fact that the Commissioner of Corrections, within a reasonable time after having been informed of a problem associated with the case of _____ has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

As is evident from the enclosed documentation, the concerns raised by case were initially referred to the Assistant Commissioner Executive Services January 24, 1994. Following my review of the Service's position on this matter as detailed in their July 7, 1994 correspondence, I referred the matter directly to the Commissioner's attention August 16, 1994. I followed up this correspondence with a reminder letter October 18, 1994. The absence of a response on this matter was further brought to the attention of the Commissioner at a meeting November 8, 1994.

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I have as of this date not received a response from the Commissioner. I am informing you of this situation, as stated above, as a requirement of s.180 of the CCRA. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by . . . case.

Yours respectfully,

A handwritten signature in black ink, appearing to read "R.L. Stewart". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections



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November 29, 1994

The Honourable Herb Gray
Solicitor General of Canada
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Dear Mr. Minister,

I am informing you, pursuant to s.180 of the Corrections and Conditional Release Act, of the fact that the Commissioner of Corrections, within a reasonable time after having been informed of a problem associated with the case of [redacted] has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

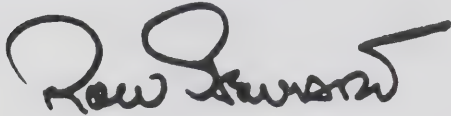
As is evident from the enclosed documentation, the concern related to the excessive delay in the processing of [redacted] grievance at the Commissioner's level of the process was initially referred to the Assistant Commissioner, Executive Services June 25, 1993. [redacted] case was then referred by myself to the Commissioner February 3, 1994 as one of thirteen cases which remained outstanding despite numerous follow-up letters from this Office. Following my review of the response received July 22, 1994 from the Assistant Commissioner Executive Services, I referred the matter again back to the Commissioner August 16, 1994 as

[redacted] January 1993 grievance remained unaddressed. I wrote the Commissioner again October 18, 1994 referencing my August correspondence indicating that a response had yet to be provided. The absence of a response on this matter was further brought to the attention of the Commissioner at a meeting November 8, 1994.

.../2

I have as of this date not received a response from the Commissioner. I am informing you of this situation, as stated above, as a requirement of s.180 of the CCRA. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by . case.

Yours respectfully,

A handwritten signature in black ink, appearing to read "R.L. Stewart". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections

275 Slater Street
Suite 402
Ottawa, Ontario
K1P 5H9

275 rue Slater
Suite 402
Ottawa, Ontario
K1P 5H9

November 29, 1994

The Honourable Herb Gray
Solicitor General of Canada
Parliament Buildings
Wellington Street
Ottawa, Ontario
K1A 0A6

Dear Mr. Minister,

I am informing you, pursuant to s.180 of the Corrections and Conditional Release Act, of the fact that the Commissioner of Corrections, within a reasonable time after having been informed of a problem associated with the case of [REDACTED] has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

The concerns raised by [REDACTED] were initially referred to the Deputy Commissioner Atlantic Region, June 7, 1994. Following my review of the Deputy Commissioner's response of June 20, 1994 I referred the matter to the attention of the Commissioner August 16, 1994 with a request for his immediate attention to the issue. I followed up this correspondence with a reminder letter October 18, 1994. The absence of a response on this matter was further brought to the attention of the Commissioner at a meeting November 8, 1994.

.../2

I have as of this date not received a response from the Commissioner. I am informing you of this situation, as stated above, as a requirement of s.180 of the CCRA. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by case.

Yours respectfully,

A handwritten signature in black ink, appearing to read "R.L. Stewart". The signature is stylized with a large, looping initial "R" and a cursive "L".

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections

275 Slater Street
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275 rue Slater
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December 12, 1994

The Honourable Herb Gray
Solicitor General of Canada
Parliament Buildings
Wellington Street
Ottawa, Ontario
K1A 0A6

Dear Mr. Minister,

I am informing you, pursuant to s.180 of the Corrections and Conditional Release Act (C.C.R.A.), of the fact that the Commissioner of Corrections, within a reasonable time after having been informed of a problem associated with the case of _____, has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

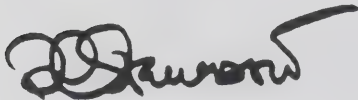
As is evident from the enclosed documentation, the concerns related to the denial of _____ transfer application were initially referred to the Assistant Commissioner, Executive Services March 14, 1994. _____ August 15, 1994, wrote to the Commissioner of Corrections with a copy provided to this Office. I wrote the Commissioner, September 7, 1994, requesting a response to our March 14, 1994 correspondence and a copy of his response to _____. I wrote the Commissioner again October 18, 1994 referencing my September 7, 1994 correspondence indicating that a response had yet to be provided. The absence of a response on this matter was further brought to the attention of the Commissioner at a meeting November 6, 1994.

... /2

... 2/

I have as of this date not received a response from the Commissioner. I am informing you of this situation, as stated above as a requirement of s. 180 of the C.C.R.A. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by _____ case.

Yours respectfully

A handwritten signature in black ink, appearing to read "R.L. Stewart". The signature is stylized with a large, looped "S" and a long, sweeping horizontal stroke at the end.

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections



The Correctional Investigator
Canada

275 Slater Street
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Ottawa, Ontario
K1P 5H9

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December 12, 1994

The Honourable Herb Gray
Solicitor General of Canada
Parliament Buildings
Wellington Street
Ottawa, Ontario
K1A 0A6

Dear Mr. Minister,

I am informing you, pursuant to s.180 of the Corrections and Conditional Release Act (C.C.R.A.), of the fact that the Commissioner of Corrections, within a reasonable time after having been informed of a problem associated with the case of _____ has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

As is evident from the enclosed documentation, this Office's concern with the excessive delay in processing _____ grievance at the Commissioner's level of the procedure was initially referred to the Assistant Commissioner, Executive Services, December 20, 1993. A response to the subject's grievance, which was filed in August of 1993, was received at this Office July 20, 1994. Following my review of that response, I referred the matter directly to the Commissioner's attention September 7, 1994 with a request for a further review of the processing of _____ case. I wrote the Commissioner again October 18, 1994 referencing my September 7th correspondence indicating that a response had yet to be provided. The absence of a response on this matter was further brought to the attention of the Commissioner at a meeting November 8, 1994.

... /2

... 2/


I have as of this date not received a response from the Commissioner. I am informing you of this situation, as stated above, as a requirement of s. 180 of the C.C.R.A. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by _____ case.

Yours respectfully

A handwritten signature in black ink, appearing to read "R.L. Stewart". The signature is stylized with a large, loopy initial "R" and a long, sweeping underline.

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections

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December 12, 1994

The Honourable Herb Gray
Solicitor General of Canada
Parliament Buildings
Wellington Street
Ottawa, Ontario
K1A 0A6

Dear Mr. Minister,

I am informing you, pursuant to s.180 of the Corrections and Conditional Release Act (C.C.R.A.), of the fact that the Commissioner of Corrections, within a reasonable time after having been informed of a problem associated with the case of _____ has failed to take adequate or appropriate action. I have enclosed a copy of all information provided to the Commissioner on this matter.

As is evident from the enclosed documentation, the concerns raised by _____ case were initially referred to the Assistant Commissioner, Executive Services June 13, 1994. As this Office had not received a response, I wrote to the Commissioner September 22, 1994 requesting his personal attention and immediate action on the matter. I wrote the Commissioner again October 19, 1994 referencing both our June and September correspondence and further requesting his personal attention in addressing the matter. The absence of a response on this case was further brought to the attention of the Commissioner at a meeting November 8, 1994.

... 2/

I have, as of this date, not received a response from the Commissioner. I am informing you of this situation, as stated above, as a requirement of s.180 of the C.C.R.A. I am as well by copy of this letter again requesting that the Commissioner of Corrections address the concerns raised by _____ case.

Yours respectfully

A handwritten signature in black ink, appearing to read 'R.L. Stewart', with a stylized, cursive script.

R.L. Stewart
Correctional Investigator

C.C. Mr. John Edwards
Commissioner of Corrections



Canada

Canada

APPENDIX B

275 Slater Street
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Ottawa (Ontario)
K1P 5H9

14 February 1995

*The Honourable Herb Gray, M.P.
Solicitor General of Canada
340 Laurier Avenue West
Ottawa, Ontario*

Dear Mr. Minister

I am submitting to you pursuant to Section 193 of the Corrections and Conditional Release Act a special report setting out my observations and recommendations concerning the treatment of inmates and the subsequent inquiry following certain incidents at the Prison for Women in April 1994 and thereafter.

Because of the importance of this matter, I make this report now rather than defer it for inclusion in my next annual report.

Yours respectfully

*R.L. Stewart
Correctional Investigator*

Canada

**SPECIAL REPORT OF
THE CORRECTIONAL INVESTIGATOR**

**PURSUANT TO SECTION 193 CORRECTIONS AND
CONDITIONAL RELEASE ACT**

**CONCERNING THE TREATMENT OF INMATES AND
SUBSEQUENT INQUIRY FOLLOWING CERTAIN
INCIDENTS AT THE PRISON FOR WOMEN
IN APRIL 1994 AND THEREAFTER**

R.L. Stewart
Correctional Investigator
14 February 1995

INTRODUCTION

This Report is submitted pursuant to Section 193 of the Corrections and Conditional Release Act (CCRA):

"193. The Correctional Investigator, may at any time, make a special report to the Minister referring to and commenting on any matter within the scope of the function, powers and duties of the Correctional Investigator where, in the opinion of the Correctional Investigator, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for the submission of the next annual report to the Minister under section 192, and the Minister shall cause every such special report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it."

I hereby submit this Report, as I am of the opinion that the matters associated with the Prison for Women incidents of April 1994 are of sufficient urgency and importance that their referral to your attention could not reasonably await the submission of my next Annual Report.

The following Observations and Recommendations are the result of an extensive review undertaken by the Office of the Correctional Investigator of the incidents at the Prison for Women 22 April through 26 April and the extended Segregation of the women involved. The review included: interviews at the Prison for Women and Kingston Penitentiary, April 1994 through February 1995 with the women involved; meetings and exchanges of correspondence with the Warden of the Prison for Women, the Regional Deputy Commissioner, and the Commissioner May 1994 through January, 1995; meetings and discussions with senior representatives of the Elizabeth Fry Society in Ottawa and Kingston, with members of the Citizen Advisory Committee (Prison for Women) and lawyers representing the women involved in the April incident; an analysis of the Service's Board of Investigation Report into the incident (received 14 November 1994); a review of the Service's responses to the inmate grievances filed on the Emergency Response Team (ERT) intervention of 26 April 1994; and a review on 27 January 1995 of the video tape of the Emergency Response Team intervention of 26 April 1994.

I have attached as Annexes A and B to this Report a chronology of this Office's activities relevant to this review covering the period 15 April 1994 through 3 February 1995 as well as our detailed observations of the 26 April 1994 video tape.

OBSERVATIONS

1. *The Correctional Service of Canada failed to ensure that its investigative process into these incidents was and was seen to be open, independent and objective. The characterization of the Board of Investigation Report as a "white wash" by the offenders involved and the Elizabeth Fry Society is no surprise given the make-up of the Board.*
2. *The section of the Board of Investigation Report entitled Inmate Profile, pages 7 to 21 inclusive, provides little if any information directly relevant to the incident under investigation other than to discredit and portray the inmates involved in the most negative light possible. This detracts from the objectivity of the Report and tends to lend justification to the actions taken by the Service as evidenced in the Commissioner's January 13, 1995 letter which reads in part:*

"I understand that you received a copy of the investigation into the incidents of late April. I hope this will have brought home more forcefully the records of the women involved and the dangerousness of their actions in April."

3. *The Board of Investigation Report does not pass conclusive comment on the appropriateness of the decision to deploy the ERT.*

Although the Commissioner states that "in their report, the Investigation Team noted that: the intervention of the ERT in the segregation unit on April 26 was necessary to restore order and prevent injuries to staff as well as other inmates", the Report itself simply states under the heading The Adequacy and Effectiveness of Staff Response: "The Board of Investigation was struck by the length of time (four days) inmates were allowed to be disruptive and throw urine and feces at staff before the decision was taken to bring in the ERT. Certainly by April 26, 1994 ... some action had to be taken".

4. *The Board of Investigation did not interview the two Citizen Advisory Committee (CAC) members who attended the segregation area at the Prison for Women during the period under investigation. Both of these CAC members, at a later date, made separate representations to the Warden with regard to their concerns on the management of the situation and the continuing conditions of confinement imposed upon the women involved.*

The Chairman of the CAC was in attendance in the Segregation Unit just hours before the recommendation to call in the ERT. Over the period of an hour and a half he interviewed most if not all of the women subsequently involved in the ERT exercise. During this time period he was on the Unit by himself, no security staff were present. He notes that he did not feel threatened and that the atmosphere on the unit was "certainly calm enough that they (inmates) were able to speak to me, with great anger, with considerable anger, but rationally".

The second CAC member was in attendance at the Segregation Unit April 27, 1994 in both the morning and again that evening to witness the body cavity searches of the women involved in the ERT actions of April 26, 1994.

5. *The Board of Investigation Report, in relation to the ERT deployment decision, does not present sufficient evidence or detailing to cause one to reasonably conclude that four days of "disruptive" behaviour in segregation had culminated in a situation where there was "no alternative but to call in the ERT" as claimed by the Commissioner.*

In this regard, I note:

- *The Board of Investigation Report provides no detailing of "disruptive behaviour" from 11:30 Friday evening through till 4:30 Tuesday afternoon, with the exception of the slashing and attempted suicide on Sunday afternoon.*
- *both incidents on Tuesday evening, which appear to have precipitated the decision to call in the ERT, occurred while the staff member was alone in the Segregation Unit.*
- *the Chairman of the CAC was in the Segregation Unit, unaccompanied by security staff for an hour and a half interviewing inmates, just hours before the recommendation to call in the ERT.*
- *the Board of Investigation Report references a "report" prepared by the Correctional Supervisor recommending "that the ERT be brought in" but provides no detailing as to the content of the report or the reasons for the recommendation.*

- the Correctional Supervisor's "report" dated 26/4/94 1750 hrs. (attached as Annex E) notes that the inmates were moved to Segregation on April 22, 1994 and **NOT** searched prior to their placement in the Segregation cells, contrary to policy. The "report" further states that "given the fragile psyche of the Officers at the institution at this time, I strongly recommend that an ERT cell extraction team be brought in and all inmates in the dissociation side be taken from their cells, strip searched and placed in stripped cells". The "report" concludes; "otherwise, I fear that we will have more staff requesting stress leave and a diminished credibility towards management."
- the Board of Investigation Report further states that the Warden reads the Correctional Supervisor's report "and with the situation not improving in the Segregation area, makes the decision to request assistance of the ERT from Kingston Penitentiary". This decision is taken at 8:45 Tuesday evening, the ERT is deployed at 11:37 yet the Investigation Report provides no detailing of the inmates' behaviour in the segregation area during this three hour period.
- all of the women prior to and at the time of the ERT deployment were locked securely in their segregation cells.

The Board of Investigation Report, as I stated above, does not provide sufficient evidence or detailing to cause one to reasonably conclude that the decision taken to employ the ERT was "necessary" or the "only option". This Office requested in correspondence dated 23 November 1994, in an attempt to more reasonably reach a conclusion on this matter, copies of all observation/officer reports, offense reports, security reports and Use of Force reports for the period 22 April to 26 April 1994. As of the date of this report, the Office has not received this material.

6. The Board of Investigation Report is at best incomplete, inconclusive and self serving.
7. The video tape of the 26 April 1994 incident involving the ERT was requested in correspondence to the Regional Deputy Commissioner by this Office 23 June 1994. A further request for the video tape was made to the Commissioner's Office 7 November and again 18 November, 1994. This Office obtained access to the video 27 January 1995.

The video tape of the deployment of the ERT shows a massive display of force being exercised in the face of virtually no resistance. Even if one could accept the legitimacy of the initial decision to deploy the ERT, it is difficult to accept the continuation of this exercise given the obvious level of cooperation displayed by the inmates. The task of the ERT was to remove one woman at a time from her cell, strip the cell of all effects, and return that woman to her cell.

In the first case depicted, the woman's clothing was forcibly removed and given that the film starts during this process, it is not clear if she was initially offered the opportunity to remove her own clothes. In each case after that, the ERT members entered the cell and if the woman was not already naked, ordered the woman to remove her clothes. In all but one of these instances, the women complied, and in the case where one woman did not comply quickly enough, her clothing was also forcibly removed. Each woman was then told to kneel, naked, on the floor of her cell, surrounded by ERT members while restraint equipment was applied.

After the restraint equipment was applied, each woman was helped to her feet, backed out of the cell naked, then given a flimsy paper gown, and marched backwards by the ERT from her cell to the shower area.

The woman was then directed by the ERT, with the assistance of their batons and shields, to stand facing a wall, one member holding the woman's head against the wall, presumably so she could not see what was going on while another member held a baton close to her head.

While in the shower area, the cell was stripped of everything including the bed. Once the cell was stripped, the woman was marched backwards back to her cell. Each was placed in her cell, asked to lie or kneel on the floor, the ERT members exited, the door was locked and the woman was left without a blanket or mattress in the stripped cell with the restraint equipment still on; contrary to s.68, 69 and 70 of the CCRA. However, in one case the woman was returned to her cell, made to kneel naked on the floor surrounded by ERT members for in excess of ten minutes, while team members fumbled with the restraint equipment.

This procedure was repeated for each of the eight women involved and took in excess of two and a half hours to complete. Over the course of this time period, there was evidence of physical handling of the women by the ERT members and a number of women were poked or prodded with batons.

These incidents appeared in part to result from the women not understanding the mumbled directions given through the security helmets worn by ERT members.

There are six interruptions on the tape totalling in excess of 50 minutes of unrecorded activity.

This exercise was, in my opinion, an excessive use of force and it was without question degrading and dehumanizing for those women involved. The responsibility and eventual accountability for these actions primarily rests with those officials who ordered the intervention and those who have continued to characterize the exercise as reasonable and professional without any recognition or apparent appreciation of its effect on the women involved.

8. *The exercise was initiated to my mind for the purpose of appeasing fragile staff psyches and boosting management's diminishing credibility in the eyes of its employees.*
9. *The Commissioner's level of the grievance process responded to the grievances filed on the intervention of the ERT without having reviewed the video tape. As such, the Commissioner's level of the process has failed to ensure that the concerns raised by the women were addressed in a thorough and objective fashion.*

The detailing provided by the grievors was measurably more reflective of the events captured on the video than were the responses provided by the Senior Management of the Service.

10. *The other CAC member's diary which served as a method of recording personal impressions and keeping dates straight, notes:*

"Wednesday 10 am, I visited the cells while Bob Batter (Chairman of CAC) stayed outside the segregation door. Most were naked and very angry. Women naked or in torn paper gowns, in shackles, no mattresses, no hygiene items/utensils etc. Segregation was quite cold...at least it would seem so for a person with no clothes on.

Wednesday night--call from Mary Cassidy approx 9pm. I went to prison and witnessed the internal vaginal and rectal examinations. Women signed agreeing to the searches in exchange for showers, and each were given a cigarette around 12:30am. Women were given security gowns and had one blanket to sleep on at this time. No toilet paper except as requested piece by piece--no hygiene products. Body searches went OK---no force was used by the officers etc. Most of the women seemed in ok spirits.

Issue of sanitary napkins very barbaric---great discussion over old dirty underwear---was there any clean? Image of women walking from shower with pads between their legs naked---quite unnecessary."

11. The women were held, in some cases, for up to eight months, in segregation cells initially stripped of all amenities, subject to 24 hour a day camera surveillance and the wearing of restraint equipment whenever they left their cells. They were denied for extended periods of time bedding, clothing, including underwear, basic hygiene items, personal address books, writing material, contact with family and daily exercise. The unit was not cleaned for over a month following the April incident and Senior management was not visiting the segregation unit on a daily basis to meet with offenders as required by the legislation (s.36(2) of the CCRA), in fact this Office noted a month period where there is no record of the Unit Manager attending the area. The level of insensitivity displayed following the 26 April ERT intervention is difficult to comprehend and indefensible.

The extended period of time spent in segregation and the conditions under which the women were forced to live were punitive and inconsistent with the legislative provisions governing Administrative Segregation (s.31(2) and s.37 of the CCRA) and the provisions governing General Living Conditions (s.68, 69 and 70 of the CCRA). The actions taken by management in perpetuating this situation had a great deal more to do with addressing staff's "low morale and feelings of powerlessness" than addressing any ongoing concerns related to individual safety or institutional security.

12. The above concerns, related to segregation, were brought to the attention of the Service's Senior Management by this Office through correspondence and meetings commencing in April of 1994 and culminating with my correspondence of 7 November 1994 to the Commissioner of Corrections attached as Annex F and his response of January 13, 1995, attached as Annex G.

*The Correctional Service of Canada, in responding to these concerns, has taken no action which can be seen as timely, adequate or appropriate. The Service's responses to this entire matter can be characterized as **"admit no wrong, give as little as possible and time will eventually resolve the matter"**. Hardly consistent with the Service's motto of Accountability, Integrity, Openness.*

RECOMMENDATIONS

1. *That the Correctional Service of Canada establish as policy the appointment of a civilian chairperson on Boards of Investigation into major incidents and the inclusion of civilian members on Boards of Investigation convened for incidents resulting in the use of force, bodily injury or death.*
2. *That the Service ensure that their Investigation Reports contain sufficient information so as to reasonably reflect the totality of the incident under review and the breadth of the evidence and testimony received.*
3. *That the Board of Investigation Reports contain personal information on the inmates involved only as it relates specifically to the incident under investigation.*
4. *That the convening authority for investigations thoroughly and objectively review, in a timely fashion, Investigation Reports to ensure that Accountability, Integrity, Openness has some meaning and that this requirement be clearly stated in Service policy.*
5. *That the "report" prepared on 26 April 1994 recommending that the ERT be brought in and the reasons for the Warden's decision to initiate the ERT intervention be published as an Annex to the publicly released Board of Investigation Report.*
6. *That the video tape of the ERT intervention of 26 April 1994 at the Prison for Women be made public, limited only by the privacy concerns of the inmates involved.*
7. *That the individual grievances filed by the inmates concerning the ERT intervention be further reviewed and responded to personally by the Commissioner.*

8. *That the Correctional Service of Canada desist from the practice of deploying a male Emergency Response Team against female inmates.*
9. *That the Correctional Service of Canada re-think its decision on the hiring of male frontline correctional officers and primary case workers for women's prisons. This re-thinking should include extensive consultation with those organizations initially involved in the Task Force on Federally Sentenced Women and those women currently incarcerated.*
10. *That the Correctional Service of Canada enter into immediate negotiations with those women affected by the ERT intervention and the resulting long term segregation placement for the purpose of establishing reasonable compensation packages.*



RESPONSE BY THE CORRECTIONAL SERVICE TO THE RECOMMENDATIONS OF THE CORRECTIONAL INVESTIGATOR

1. *That the Correctional Service of Canada establish as policy the appointment of a civilian chairperson on Boards of Investigation into major incidents and the inclusion of civilian members on Boards of Investigation convened for incidents resulting in the use of force, bodily injury or death.*

Response

The policy introduced by the Commissioner in mid 1994 is that all national investigations require a member from outside the Service and, depending on the nature of a particular case, this outside member can be the chair, e.g. recent investigation into escapes from Bath Institution.

2. *That the Service ensure that their investigation Reports contain sufficient information so as to reasonably reflect the totality of the incident under review and the breadth of the evidence and testimony received.*

Response

Agreed.

3. *That the Board of Investigation Reports contain personal information on the inmates involved only as it relates specifically to the incident under investigation.*

Response

The risk presented by particular offenders is usually a critical factor in determining the appropriateness of the course of action adopted. Generally, profiles are thus an important part of investigation reports. It is agreed that personal information unrelated to providing a context for the assessment of risk should not be made public.

4. *That the convening authority for investigations thoroughly and objectively review, in a timely fashion, Investigation Reports to ensure that Accountability, Integrity, and Openness has some meaning and that this requirement be clearly stated in Service policy.*

Response

Agreed.

5. *That the "report" prepared on 26 April 1994 recommending that the ERT be brought in and the reasons for the Warden's decision to initiate the ERT intervention be published as an Annex to the publicly released Board of Investigation Report.*

Response

Agreed.

6. *That the video tape of the ERT intervention of 26 April 1994 at the Prison for Women be made public, limited only by the privacy concerns of the inmates involved.*

Response

Any request will have to be subject to the provisions of the Privacy Act. The advice of the Correctional Investigator will be sought as to what limitations would be warranted in respect to the privacy concerns of the inmates involved.

7. *That the individual grievances filed by the inmates concerning the ERT intervention be further reviewed and responded to personally by the Commissioner.*

Response

While the Commissioner cannot be expected to review and respond personally to some thousand complaints addressed to him each year, he will further review those that have been filed by the Prison for Women inmates concerning the ERT intervention and respond personally to the grievors.

8. *That the Correctional Service of Canada desist from the practice of deploying a male Emergency Response Team against female inmates.*

Response

Steps are already underway to create a trained team of female correctional officers within the Prison for Women which could limit any need to call in the emergency response team from Kingston Penitentiary. In the event the ERT were again to be called in, their role would be limited to handcuffing and/or shackling inmates; every reasonable step will be taken to avoid their presence when inmates are required to be naked.

When the Prison for Women is replaced next year by smaller regional facilities, the intention would be to call upon local police detachments should unrest occur beyond the capacity of prison staff to handle effectively. Protocols to that effect are being sought.

9. *That the Correctional Service of Canada re-think its decision on the hiring of male frontline correctional officers and primary case workers for women's prisons. This re-thinking should include extensive consultation with those organizations initially involved in the Task Force on Federally Sentenced Women and those women currently incarcerated.*

Response

Many women federal offenders spend a period of years in incarceration. To try to provide them with a total isolation from men would not likely assist in their eventual re-integration into the community. Recruitment for the new facilities has begun, and screening of candidates is rigorous. Few men have applied to date.

10. *That the Correctional Service of Canada enter into immediate negotiations with those women affected by the ERT intervention and the resulting long term segregation placement for the purpose of establishing reasonable compensation packages.*

Response

The issue is already before the courts.

April 1995

**ANNUAL REPORT
1994-1995
WORKING PAPER**

**COMMISSIONER'S RESPONSES OF OCTOBER 1994 AND
MARCH 1995 ON ANNUAL REPORT 1993-1994**

The Commissioner's Responses appear to have been authored in part without benefit of access to the 1993/94 Annual Report.

The Responses make no attempt to address the overriding concern detailed in the Annual Report's Introduction related to the Service's inability to effectively and efficiently manage an ever increasing inmate population. The individual areas of inmate concern are for the most part dealt with in isolation from each other in a rather cursory fashion often ignoring the specific observations and recommendations of the Annual Report. In short, the Responses are dismissive, giving little or no acknowledgement to the significance of the Issues, the Service's past unfulfilled commitments or the explosiveness of the current situation which has some 5000 federal inmates double bunked.

Below find a brief summary on the current status of each of the Issues.

1. SPECIAL HANDLING UNITS

Last year's Annual Report shifted this Office's focus from the Service's SHU Annual Report, which had been characterized for years as inadequate, and centred on the Service's Internal Audit of January 1994 which in large part had affirmed the legitimacy of the concerns raised by this Office over the years.

The Annual Report concluded by stating that the Office awaited the Service's action plans from this Audit and specifically recommended that the Service establish membership for the National Review Committee that reflects the requirement for objectivity and fairness in the decisions taken by this Committee.

The Commissioner in his October 1994 Response speaks of a "draft 1993/94 Annual Report on SHU" yet says nothing about the action plans from the Audit and passes no comment on the specific recommendation related to the National Review Committee.

The Commissioner's March 1995 Response states that Commissioner's Directive 551 was "revised and promulgated 1995-02-01 - the functions, make-up and mandate of the National Review Committee have been formalized ... the programming objectives are clearly stated". The function, make-up and mandate of the National Review Committee was formalized within the previous Commissioner's Directive as were the programming objectives. The difficulty over the years has not been with the policy, it has been with the application of and commitment to the policy.

The concerns with respect to SHU operations, as detailed within the Office's Annual Reports, have centred on two inter-related areas.

First, the ability of the SHU to provide programming in a reasonable and timely fashion which was responsive to the specific identified needs of the inmate population it served. Second, the objectivity and fairness of the National Review Committee with respect to its roles both as a decision making body on individual cases and the body responsible for the ongoing monitoring and analysis of the SHU program.

Neither of these areas of concern are reasonably addressed by the policy revisions of February 1, 1995. (See attached correspondence to the Commissioner dated February 8, 1995).

To address these areas of concern, the Service needs to;

- a) specifically identify and catalogue the individual needs of the SHU inmate population and ensure that the programming available specifically address those needs;*
- b) require the National Review Committee, in fulfilling its responsibilities associated with monitoring and analysis, to address specifically the effectiveness of SHU programming in relation to the stated objectives; and*
- c) establish a National Review Committee with a senior national presence which has and is seen to have the authority and objectivity required to carry out its functions in a fair and responsive manner.*

The decision to amalgamate the two SHU operations into one facility, while a positive move, has I believe resulted less from an objective review of individual security classifications as per existing policy objectives than from existing population pressures. Until such time as the above noted areas are addressed, SHU operations, whether in one or two locations will continue to be little more an expensive form of long term segregation.

2. INMATE PAY

The Correctional Service of Canada had been, until recently, supportive of a pay increase for offenders. (See attached correspondence from the Assistant Commissioner Executive Services dated March 30, 1993). There has not been a meaningful adjustment to inmate pay rates for over a decade. The problems created by this situation were detailed in correspondence to the Commissioner of Corrections in April of 1992.

Last year's Annual Report concluded by stating:

A linking of the long overdue upward adjustment of inmate pay rates with the current economic situation and freeze on public service wages creates a difficult position to defend. I can only recommend that the issue be re-examined with a view to resolving the erosion of the inmates' financial situation.

The Commissioner in his October 1994 Response states:

"We are exploring a new structure that would establish a higher rate for those who are unemployed through no fault of their own. This would be offset by also reducing the rate for those who agree to work but who refuse to participate in programming related to their Correctional Plan".

The Commissioner's March 1995 Response, while acknowledging that this Office's observations are fair and accurate, concludes by stating:

"Although the Service technically still has approval from Treasury Board to fund an increase in pay rates, there is little likelihood in the current economic climate that there would be any support for such a measure".

The position taken by the Service on this issue is wrong. Reason and fairness dictates that even in the face of the existing "climate", a decision to adjust inmate pay levels needs to be taken. Public misperception cannot be allowed to form public policy.

3. GRIEVANCE PROCESS

The Commissioner's October 1994 Response on this issue is nothing more than a rambling attempt at defending the indefensible, interspersed with future promises of change. The Service's referenced review of the redress system, by a high level CSC Steering Committee, as noted in last year's Annual

Report, is the third major review in the past five years. The responsiveness of the system at the Commissioner's level has been in decline for the past five years and has been characterized in past Annual Reports as basically dysfunctional.

The Commissioner's March 1995 Response provides a detailing of the Inmate Affairs Division's work load, presumably as an explanation for the continuing excessive delays in third level grievance responses. I am not, nor have I in the past, questioned the work ethic of those involved in processing grievances. I have and continue to question the commitment of the Service, especially at the Commissioner's level, to providing a responsive redress system.

While the Commissioner's latest Response states that the Service "*remains committed to eliminating the backlog of grievances at the 3rd level*", data for the months of November 1994 through January 1995 clearly indicates a continuing massive discrepancy between policy, commitment and reality. This Response further states that "*a concentrated effort to eliminate the backlog began in September of 1994*". To place this comment in perspective I refer you to the attached correspondence from the Assistant Commissioner Executive Services dated March 29, 1993.

This is a very simple issue. The Corrections and Conditional Release Act (CCRA) requires that the Service establish and maintain a procedure for "fairly and expeditiously resolving offender grievances". The former Commissioner in commenting on the system stated; "*the timeliness of our responses will be seen - quite correctly - as a real indicator of the importance we place on resolving offender complaints*". The current system, as operating neither meets the requirements of the CCRA nor provides an indication that the Service places an "importance" on resolving offender complaints.

Neither existing work loads or future plans for re-engineering the process can reasonably be put forth as excuses for the current situation. To effectively manage the grievance process, the Service needs;

- to establish and maintain an information system which identifies areas of complaint, significant issues raised by complaints, corrective actions taken and timeliness of responses; and
- to commit sufficient resources to the process to ensure that legislative and policy requirements are met.

4. CASE PREPARATION AND ACCESS TO MENTAL HEALTH PROGRAMMING

The Commissioner's Responses on this issue, as has become the tradition, are written in the future tense.

The Office's 1992/93 Annual Report stated:

The Service has failed to take reasonable and timely action on these longstanding areas of offender concern, in part, because it continues to await the development of automated Offender Management System. Corrective action in these areas can no longer afford to await the constantly delayed development of this system. Management can no longer afford to use the shortcomings of this system as an excuse for not taking action.

The Commissioner's October 1994 Comments on this matter speak directly to its current status.

"While national tracking of indicators of progress related to Corporate Objective 1, using the O.M.S. has not yet been resolved the Service is presently building computerized reports to automatically track the cases of offenders past their parole eligibility dates including the associated reasons (e.g., awaiting implementation of decision, case preparation not completed, waiver/postponement invoked, etc)";

"The aspects of O.M.S. designed to capture information on the availability and timely delivery of key offender programs were implemented in the autumn of 1993. There were difficulties initially with design of computer programs which resulted in limited use of the program module";

"Progress is being made on the issue of sex offender tracking and program information. By using Management Information Component data in the new system, it is possible to identify and track sex offenders and monitor their status vis-a-vis decision making... Ultimately, when offender intake assessment is fully implemented and program participation history is entered into the O.M.S., this information will be readily accessible";

"Preliminary data relating to temporary absences has been extracted from the O.M.S. and has revealed imputing deficiencies. These deficiencies are being addressed";

"Experience with O.M.S. has shown that, in this portion of the system, there are problems with the quality of the data being entered as well as the functioning of the application according to design specifications".

Corrective action continues to await the constantly delayed development of this system and management continues to use the shortcomings of the system as an excuse for not taking action. The results of this inaction has contributed significantly to the Service's continuing inability to effectively and efficiently manage the ever increasing federal inmate population.

Overcrowding is as much the by-product of CSC's own failure to provide timely access to programming and case preparation as anything else the Service might like to suggest. And although CSC claims they remain "committed to Corporate Objective No. 1" after four years of promises on projects intended to move them towards the achievement of this Objective the words ring a little hollow. The bottom line on this issue remains as stated in 1992:

Until such time as the Service is capable of measuring the availability and timely delivery of key offender programs, their policy development and management decisions in this area will continue to be adhoc and uncoordinated.

The Commissioner's March 1995 Response again detailed a number of projects, which "will be coming to fruition over the next months", intended to assist the Service in "working towards the achievement of Corporate Objective #1". These projects are not new, yet they are presented without any clear indication as to their anticipated impact on current Service operations or what performance indicators will be used to evaluate the effectiveness of these projects. In short, what changes does the Service expect from these projects and against what is the Service going to measure the effectiveness of these changes in its movement towards achievement of Corporate Objective #1?

For a further detailing of those areas that need to be addressed, beyond those identified in my Annual Report, I refer you to correspondence dated November 14, 1994 re: Proposed Strategy to Managing Crowding and March 27, 1995 concerning data base requirements (attached).

The Commissioner's Responses on this matter, given the long standing nature of the issues and the Service's past failure to do what it claimed needed to be done, continue to appear to be adhoc and uncoordinated.

5. **DOUBLE BUNKING (OVERCROWDING)**

I do not accept the current situation as inevitable or beyond the control of the Correctional Service. To do so is to deny recent history and the reality of the present.

The Commissioner's March 1995 Response on this issue opens by stating:

The higher than forecast admissions, (how high?, what types of admissions?) combined with lower than forecast releases (how low?, what types of releases?) has resulted in the accommodation shortfall which CSC must manage.

The reasons for this population increase have not been thoroughly analyzed by the Service. Rather it has been left to speculation; the public mood, pressure on judges to get tough on violent offenders, longer sentences, more cautious Parole Board decisions. You cannot reasonably manage a problem if you do not know its cause. I refer you again for a further detailing of the Office's position on this matter to the previously referred to correspondence of November 14, 1994, which reads in part:

"The Service is not a hapless victim of circumstances beyond its control in this process of population increase. I have commented for years within my Annual Reports on the impact of timely case preparation and access to programming. I concluded this year's Annual Report on this matter by stating:

As indicated in the Introduction, I do not believe that in the long run the solution to delayed case preparation lies with the expansion of current institutional capacity of resources. The Service over the years, with the proliferation of institution programming, has become dependent on this extended period of incarceration, between parole eligibility and statutory release, to provide programming. There appears to be a reluctance on the part of case management staff to give consideration to conditional release as an option until such time as these programs have been completed, many of which could be provided under supervision in the community. The current population increase, caused in part by offenders remaining in institutions to complete programs, has further delayed timely access to these programs which in turn extends the period of incarceration and adds to the population growth.

This cycle of dependency is unlikely to be interrupted until such time as the Service accepts and takes action on the principle that the protection of society is served through the timely re-integration of offenders as law-abiding citizens. A continuation of business as usual in this area will promote further population growth and will impact measurably on the viability of the system's current decision-making processes; the efficiency and effectiveness of existing institutional programs; and the ability of the Service to provide equitable and just treatment in a responsive fashion to the inmate population.

A cursory review of the unanalyzed raw data recently provided by the Service on Admissions and Releases indicates that overcrowding to a significant degree is a self inflicted injury. While admittance to federal penitentiaries via Warrant of Committal has increased by less than 100 over the past year, admittance as a result of parole revocations is up by over 500. On the other end of the scale, the number of inmates released on parole is down by more than 700. A combination of the increase in revocations and the decrease in paroles more than accounts for the annual population increase.

I offer the above simply as an observation. The state of the Service's existing data, or at least that data provided to this Office, on performance indicators relevant to Corporate Objective #1 does not lend itself to reasonable analysis. This situation continues to exist despite the Service's acknowledgement in 1990 that there was a significant problem in this area. A thorough analysis of the impact of the release and supervision processes on population growth can not be done until such time as reliable data not only on the number of releases but on the timing of those releases is available.

I cannot overstate the importance of this analysis on the Service's ability to manage the offender population. A strategy to manage overcrowding must incorporate a clear detailing as to the causes of the problem and specific direction on how to address the problem".

The action plan from the Commissioner's Focus Group on Accommodation Policies in January of 1994 calling for a review to be undertaken to address the question, "Why are incarceration numbers increasing?", has not been actioned. As notes in last year's Annual Report, the areas identified for specific review were; "admissions, releases, waiver rates, National Parole

Board concordance rates, paperwork backlog, requirements for Work Release, timing of programming for release, and adequacy of community infrastructure".

This undertaking, as with the Service's Executive Committee decision of May 1993 to form a task force "to examine short and long term options to reduce double bunking", has produced no tangible results. The number of double bunked inmates has gone from around 2,000 in 1992-93 to in excess of 5,000 in 1994-95.

In short, the Correctional Service of Canada appears to be currently recommending that more inmates spend longer periods of time incarcerated and in turn recommending that more conditionally released offenders be returned to prison - why?

On the matter of double bunking in segregation, the Commissioner's Response of October 1994 states:

It should be noted in response to the Correctional Investigator's concern on the "inhumanity of double bunking in segregation" that the current reading of the draft strategy indicates that offenders should not be double bunked in special needs cells such as psychiatric/treatment cells; segregation cells (disciplinary, administrative and protective). However, in periods of extreme population pressures, regions may choose to use special needs cells to double bunk normal association or special needs offenders. Such measures shall take into consideration identified selection criteria, for short term periods and only utilized until cell space becomes available.

The Service has been in "a period of extreme population pressure" for the past six years and I have as yet to see any "selection criteria" applied to those double bunked in segregation. "Short term periods" - how do they know? The Service recommitted itself in April of 1993, see attached correspondence from Assistant Commissioner Executive Services, to the monitoring of inmates double bunked in terms of time and cell location. The Commissioner's Response of November 1994, advises that the "monitoring and evaluation mechanism, when implemented on finalization of the policy, will identify the length of time offenders are double bunked and the number of offenders double bunked in these cells. Double bunking reports will be available to the Office of the Correctional Investigator as produced".

The Commissioner's Response of March 1995 further stated that "institutions are reporting double bunking data to National Office weekly, permitting ongoing monitoring of the double bunking situation in each institution and each region".

I have yet to see these reports or the results of the monitoring. How long have the individual inmates who are double bunked, for instance, at Edmonton Institution in segregation been so housed?

The Commissioner's Response of March 1995 goes on to state that the Service's Accommodation Policy (which started out as a Proposed Strategy to Manage Crowding) "reflects the acknowledgement by the Auditor General in his annual report that double bunking is a humane and cost effective measure to mitigate the effects of overcrowding". I have reviewed the Auditor General's annual report and although I cannot find such acknowledgement, I feel compelled to once again state that double bunking in a cell designed for one individual is inhumane.

I believe that there are currently thousands of inmates in federal institutions who could be given positive consideration for conditional release if the Service could provide timely access to programming and case preparation. This would eliminate double bunking. Continued population increases will place greater pressures on timely programming access and case preparation which in turn will cause a further increase in the population.

6. TEMPORARY ABSENCE PROGRAMMING

This issue, specifically the decline in Temporary Absence Programming, was raised in 1989. The Office has been advised by the Service over the past five years that the matter was being assessed through various study groups, evaluation plans and audit reports. The Office was also advised in response to the 1992 Pepino Report that Temporary Absence Programming was being monitored, first in 1993 at the national level, then in 1994 at the regional level and finally, when no evidence existed in support of these claims, the Service stated that individual institutions were monitoring and analyzing the data on Temporary Absences.

This Office has reported in response to these various claims of monitoring and analysis that the Service's approach to this issue over the years was best characterized as a "smoke and mirrors campaign".

The Commissioner's October 1994 Response states that "preliminary data relating to temporary absences... has revealed inputting deficiencies... it is expected that the data extraction program (which will allow for meaningful analysis) will be available to local and regional levels in early 1995".

This passing admittance of unreliable data and future promise of meaningful analysis does not begin to address or excuse five years of misleading information and unfulfilled commitments. This is or perhaps was an important

program directly linked to timely conditional release preparation; where is the accountability for the past five years and what exactly is the Service now committing itself to do?

The Commissioner's March 1995 Response claims that a data extraction program has been prepared which will provide basic information about Temporary Absence Programs for inclusion in the Executive Information System. It is further stated that this will provide the capability of each Executive Information System user to carry out analysis of the Temporary Absence program. What is meant by analysis? Methodology? Coordination? Purpose?

The March 1995 Response also advises that "the Correctional Research and Development Sector is proposing to conduct an evaluation of the Temporary Absence Program during 1995/96... the proposed Correctional Service of Canada research plan, which includes the Temporary Absence project, will be reviewed by the Executive Committee at its next meeting". Given the Service's track record on this Issue, without a specific detailing as to what is meant by "an evaluation" and "a research plan" the acceptance of these renewed undertakings could well be nothing more than the buying of more smoke with the mirrors to follow.

7. TRANSFERS

The evolvement of this Issue is very similar to that of Temporary Absence Programming.

Transfer decisions and the process leading to those decisions continues to represent the single largest category of complaint received by this Office. The Service's Internal Audit recommended in 1989 the requirement for an effective quality control mechanism at the regional and national levels to ensure that the transfer process complied with established procedures and timeframes for decision making.

Over the past five years, this Office has commented extensively on the inadequacies of the transfer process and has put forth numerous recommendations in support of the Audit findings in an attempt to ensure:

- a) that the system is capable of objectively reviewing and issuing a decision on transfer decision in a timely fashion;*
- b) that during the course of its review of individual appeals on those decisions that the review focus not only on the decision taken, but as well, on the fairness of the process leading to that decision; and,*

- c) that a quarterly report be issued summarizing the review of transfer appeals.

The Office was advised in 1991 that the regions had acted on the recommendations of the 1989 Audit Report. We were advised in 1992 that OMS Release 2 would allow for effective monitoring of transfers at the national level and again in 1993, the Office was further advised that transfers were monitored at the institutional level. Three years of smoke and mirrors.

Last year's Annual Report concluded that our **"investigation of inmate complaints related to the transfer process has found little evidence of effective quality control and our specific requests to the regions and institutions concerning their monitoring of the transfer process produced limited responses"**.

The Commissioner's October 1994 Response advises that OMS is experiencing problems with the quality of the data being entered... and that it is expected that detailed information concerning transfers will be available during 1995.

Over the course of this reporting year, the Service has implemented additional changes to Commissioner's Directive 540 delegating further decision making authority for transfers to the institutional level, a process which I characterized in past Annual Reports as negatively impacting on both the efficiency and objectivity of the system. The Office has also witnessed, in response to excessive overcrowding, involuntary transfers to provincial institutions being authorized under exchange of service agreements, an increase in involuntary inter-regional transfer for the purpose of population management and a growing number of inmates being housed in institutions inconsistent with their security classification.

On this latter point, the Auditor General in his recent report indicated that the Service should:

- revise the Custody Rating Scale as soon as possible, using the most current data, to ensure its continuing validity;
- consider including additional factors in the scale to ensure more consistency between inmate security classification system and the provision for accelerated parole review; and

- consider reclassifying inmates more frequently than on an annual basis and place more emphasis on the consistency between security reclassification and other risk assessment decisions such as transfers and parole.

At the time of the Auditor General's review, there were approximately 900 inmates housed in prisons with a security level higher than their individual classification. The absence of accurate up-to-date information on this situation, at the headquarters level, was viewed by the Auditor General as "a very serious problem".

The Service in response to the above, indicated that its Research Branch has been requested to undertake a study on the accuracy and application of the Custody Rating Scale, and the question of consistency or correlation between Accelerated Parole review status and individual inmates' security classification will be examined.

The Commissioner's March 1995 Response with respect to the transfer process advises that "OMS provides information to allow tracking of the inmate transfer process, including the provision of information such as the type of transfer (voluntary/involuntary), date of application, reason, decision, actual date of inmate movement and the outcome of any appeals". The question is; is this information available at headquarters, is it correlated and analyzed, and what does it show?

As with the previous issues of Case Preparation, Program Access, Grievances, Double Bunking and Temporary Absences, the Service, to address the concerns associated with these matters, needs to clearly identify specifically what they are going to do, how they intend to do it and who is responsible and accountable for getting it done.

8. MANAGEMENT OF OFFENDER PERSONAL EFFECTS

The Service initiated a review of its policy on this issue in early 1990. The Commissioner's March 1995 Response advises that the final Commissioner's Directive and Guidelines had been sent for his signature. While the revised policy address many of the initial concerns raised, difficulties continue to surface with respect to inconsistencies in allowable personal effects, specifically related to computers.

The Service has been reviewing this matter from a security perspective, for in excess of two years. I would hope that a final decision ensuring reasonable consistency on this matter will be taken in the immediate future.

9. PAY POLICY FOR UNEMPLOYED INMATES

Last year's Annual Report, in light of the agreed upon position that \$1.60 a day was an insufficient allowance, specifically recommended that:

A sufficient minimum daily allowance be established and that all inmates regardless of status receive at least that minimum daily allowance.

I concluded last year's Report by stating; "I further recommend, given the excessive delay on this issue, that immediate action be taken".

The Commissioner's Responses of October 1994 and March 1995 pass no reasonable comment on the above recommendation.

The Service has moved over the past year from a policy of pay for work to one of pay for participation in ones correctional program, including treatment. There is a fine line between providing an incentive and coercion. The provision of an insufficient allowance for those who do not participate in programming to my mind crosses that line into the murky waters of forced treatment. I therefore, in terms of fairness and to ensure that inmate pay is in fact an incentive to program participation, re-state my above recommendation and again call for immediate action.

10. CRITERIA FOR HUMANITARIAN ESCORTED TEMPORARY ABSENCES

The Commissioner's October 1994 Response simply states: Issue resolved in 1992-1993. The March 1995 Response says nothing.

Last year's Annual Report acknowledged that the Commissioner had taken action on this issue by issuing Guidelines to reinforce the Service's policy on Humanitarian Escorted Temporary Absences. I as well acknowledged in last year's Report that the Guidelines were "clear and reasonably reflected the Service's policy", yet I accepted that it was inevitable that decisions would continue to be made inconsistent with the policy and guidelines.

I concluded last year's Report by stating that decisions inconsistent with the Service's Policy would be referred directly to the Commissioner. Over the course of this reporting year, a number of Humanitarian Escorted Temporary Absence decisions have been referred to the Commissioner for his review. Unfortunately, the results of those reviews have tended to be excessively delayed, defensive and non committal.

11. HOSTAGE TAKING - SASKATCHEWAN PENITENTIARY

Last year's Annual Report on this matter stated:

"Although I do not have further information relevant to this matter, I do have a number of continuing concerns. I am concerned with:

- a) the clarity and understanding of the Service's policies related to the use of drugs as an item of negotiation and the role of outside negotiators;*
- b) the absence of a comprehensive review on the issues associated with protective custody integration and institutional violence;*
- c) the delayed publication of Preventive Security Standards and Guidelines; and*
- d) the fact that the Services' Investigation concluded that the surviving hostage-taker suffered no injuries, when a simple review of the subject's medical file would have indicated otherwise.*

On a more general and personal basis, I was concerned with the approach taken by the Service in addressing this matter. It was never the intention of this Office to point fingers or cast blame. We were not there and I have no doubt that the decisions and actions taken by those responsible for the management of this incident were taken in good faith. It was our intention to cause the Service to thoroughly and objectively review those issues raised by its own Board of Investigation. This never happened".

The Commissioner's October 1994 Response states:

"Further to CSC's response to the Correctional Investigator's Annual Report (1992/93) dated January 6, 1994, the Commissioner met with the Correctional Investigator and made it very clear that CSC considered the above mentioned matter closed".

The Commissioner's March 1995 Response stated that *"the Service reported to the Minister on October 3, 1994 that in our opinion, the matter is closed. This was also reported on January 6, 1994".* This Response then goes on to pass brief comment on each of the four areas of specific concern identified in last year's Annual Report.

This entire issue and the Service's handling of it speaks more directly to the objectivity and thoroughness of their Investigative Process than it does to the incident at Saskatchewan Penitentiary four years ago.

At the risk of belabouring this issue and in the hope that some attention can be focused on matters which continue to have relevance to Correctional Service of Canada operations, I offer the following, using the format provided in the Commissioner's March 1995 Response.

Hostage Taking Policy

The focus on this issue was the clarity and understanding of the policy in place at the time as it related to the use of drugs as an item of negotiation and the role of outside negotiators. If the policy in these areas is clear and generally understood perhaps the Service could enunciate that policy and relate that policy to what happened at Saskatchewan Penitentiary.

Review of Institutional Violence

The focus here centred on the integration of protective custody and general population inmates. In response to concerns raised by their own Internal Investigation, the Commissioner, in mid-1992, "decided to launch a national review of the integration of Protective Custody inmates and the impact of policies governing this process". As I reported in my 1992-1993 Annual Report, this national review was abandoned without notice or explanation in favour of a "fundamental review of violence among inmates". I further reported that same year that this "fundamental review" was narrowly focused, centering on three institutions only one of which had attempted to integrate protective custody offenders. I concluded in that same Report that the results of this review, which purposely had a very limited distribution within CSC, made at best only passing comment on the concerns associated with integration and fell far short of fulfilling the undertaking given by the Service to provide an accurate information base from which to manage the process of integration.

As a number of regions, in response to overcrowding, are initiating policies of integrating protective custody offenders into general population institutions, I believe the Service would be very well advised to return to its 1992 undertaking in this area.

Preventive Security Guidelines

This issue centred initially on the non availability of relevant Preventive Security information on one of the hostage takers to those responsible for the onsite management of the incident. Since that time a myriad of concerns

associated with the coordination, verification, communication and correction of preventive security information and the role of preventive security officers, have surfaced. The Commissioner's March 1995 Response has established a "target date" of April 30, 1995 for the production of Preventive Security Standards. Whether these Standards in fact address these issue remains open.

Alleged Assault on Hostage Taker

The Commissioner's March 1995 Response states; *"The Service did review a television video of the subject shortly after the incident, a photograph shown by Mr. Stewart, and comments made by the negotiator, and concluded that the subject was not assaulted following the hostage-taking.*

The issue here, at this late date, is the thoroughness of the Service's Board of Investigation, which concluded that the subject "suffered no injuries", and the objectivity displayed by the Service when confronted with information to the contrary.

The referenced photograph, in the Commissioner's Response, was obtained from the subject's institutional file as was medical information provided to the Commissioner, which clearly indicated that the subject had suffered injuries consistent with an assault. Rather than address the specifics of this information, the Service has waltzed around this issue for the past two and a half years. To my mind, the music stopped playing quite some time ago - on this issue the Board of Investigation was wrong and the Service's follow-up action was at best evasive.

On the overall issue, I re-state again, it was never the intention of this Office to point fingers or cast blame, it was our intention to cause the Service to thoroughly and objectively review those issues raised by its own Board of Investigation. Quite evidently this has not happened.

12. MENTAL INCOMPETENCE

Substantial progress has been made over the course of this reporting year in both focusing the areas of concern associated with this issue and establishing future direction in addressing these matters. The Commissioner's March 1995 Response in part stated:

"The issue of incompetence and its repercussions has been listed as an ongoing concern by the Correctional Investigator. Part of the reason for this is that it is identified as a general concerns, which may include several issues. It pertains to the legal definition of

incompetence, as defined by provincial status, and, in the broader sense, the large number of offenders who, while legally competent, are not able to cope successfully with daily life.

"As the issue of mental incompetence and adult guardianship are provincial matters guided by complicated and widely varying provincial statutes, there is no simple way to ensure a consistent approach across CSC. There is no uniform approach to mental health in Canada, despite the existence of a draft Uniform Mental Health Act.

"The concerns raised may, however, include those offenders who, while legally competent, are not able to manage their daily affairs. For these offenders, CSC has a long-term plan as part of its Mental Health Strategy. As part of the Corporate Operational Plan, the Service plans to build or convert up to 6% of its cell space for the mentally disordered offender. The primary aim of these units is to provide the type of care and assistance outlined in the Correctional Investigator's report".

This Office has recently corresponded with the Correctional Service to further establish specific areas of further consultation and we look forward to a cooperative approach in addressing this difficult yet important issue.

13. OFFICER IDENTIFICATION

This issue was initially raised with the Correctional Service of Canada in April of 1989.

Last year's Annual Report concluded:

A decision was taken by the Service's Executive Committee in May of 1993 that all institutional staff whether uniform or non-uniform would be required to wear name tags effective July 1, 1993. Hopefully the matter is resolved.

The Commissioner's October 1994 Response stated: "Issue resolved 1992-1993".

An Issue of this type cannot be simply written off as resolved. A visit to any number of federal penitentiaries provides clear evidence that although a definitive policy may well be in place, the practice continues to be considerably less than consistent. I remain firm in my position that it is unacceptable for a public servant, especially a public servant designated as a

peace officer, not to be identifiable to the public they serve. I again therefore recommend that the Commissioner take whatever action is necessary to ensure that the Service's policy in this area is consistently adhered to.

14. DISCIPLINARY COURT DECISIONS

The requirement to maintain a record of disciplinary hearings has existed in Service policy since 1990. The Office in response to last year's Annual Report was advised by the Commissioner in his October 1994 Response that Wardens had been again reminded of this requirement.

Last year's Annual Report further recommended on this matter that:

the Service initiate an Audit of their current disciplinary policies and practices, including those related to punitive dissociation, to ensure that they were in compliance with the provisions of the Act and Regulations.

The Commissioner's October 1994 Response states that "a review of the disciplinary process as it relates to the regulations is currently being conducted. A report of the findings is expected by October". The Commissioner's March 1995 Response passed no comment on this issue. If the above noted review was completed, I would appreciate receiving a copy, if the review of the disciplinary process has not been undertaken, I would appreciate even more an explanation.

15. USE OF FORCE - INVESTIGATIONS AND FOLLOW-UP

Last year's Annual Report re-stated the previous year's recommendation that **all use of force incidents be thoroughly investigated and that those investigations include input from those inmates affected.**

This recommendation was re-stated because the series of amendments offered by CSC the previous year failed to address this Office's observations of two years ago: ***"that the Service was not consistently conducting investigations as called for by existing policy and in those instances where an investigation was undertaken there was seldom evidence that the inmates affected were interviewed or that the observations and recommendations emanating from the investigation had been reviewed or actioned by senior management"***.

The Commissioner's Responses of October 1994 and March 1995 states:

"We do not share the view of the Correctional Investigator that an investigation, as described by section 19 of the CCRA, is necessary in every instance of the use of force. These investigations are costly and time consuming".

In two years of commenting on this issue, the Annual Report has never put forth the position that use of force incidents must be investigated as described by section 19 of the CCRA. In fact, section 19 of the CCRA has never been referenced by this Office in terms of use of force investigations. As such, I am at a loss to understand what it is that the Commissioner is referring to or understand the rationale put forth in support of his position.

The Commissioner's Responses goes on to say "that more and more investigations are being conducted at the informal level following the use of force". I have no idea what constitutes an "informal level of investigation" but I do know that it was the absence of a formal structure within CSC's review of use of force incidents that lead to this Office's initial observations and recommendations in this area. Recent correspondence has been forwarded to the Commissioner providing further examples of inconsistencies in the Service's management and reporting of these incidents.

Again, the issue is relatively simple and has not been reasonably addressed:

- all use of force incidents should be thoroughly and objectively investigated, inclusive of input from those inmates affected;*
- management is responsible for reviewing the reports and ensuring that corrective follow-up action is taken;*
- an information base should be maintained regionally and nationally on use of force incidents, type of force used, circumstances, number of injuries, etc., for the purpose of review and analysis to ensure that such incidents are kept to a minimum. (How many use of force incidents occur over the course of a year?).*

The Commissioner's Responses again this year are void of any comment on the matter of management responsibility in this area and continues to promote a policy of "informal investigation". Why should use of force incidents not be thoroughly and objectively investigated?

16. INMATE INJURIES

The issues associated with the reporting and recording of inmate injuries were raised with the Service in May of 1992. The Commissioner's October 1994 Response states that *"consultation on the interim instruction is to be completed by September 1994, whereupon it will be revised for approval and publication as a formal Commissioner's Directive"*. This is the same Commissioner's Directive on Recording and Reporting of Inmate Injuries that this Office passed comment on in draft form in August 1993 and were advised at that time would be published by December of 1993. An Interim Instruction was issued by the Service in July of 1994. The Commissioner's March 1995 Response states, *"although some adjustments to the directive are to be made in light of comments received from regions and the USGE, the Service is satisfied that adequate over all policy direction now exists on this subject"*. This Office will await finalization of the Commissioner's Directive prior to passing further comment.

In terms of the related issue of the Service's investigative process and their responsibilities pursuant to Section 19 of the Corrections and Conditional Release Act, last year's Annual Report stated in part:

- "- all incidents resulting in serious bodily injury, as defined by any reasonable person, are not being investigated as per the requirements of s.19; and*
- the quality of those investigations which this Office has received are in far too many instances inadequate.*

I am advised that the Service will initiate a review of its investigative process in the near future and I am in total support of this initiative".

The Interim Instruction on Recording and Reporting of Inmate Injuries provides a definition of serious bodily injury, yet the Office continues to find instances resulting in injuries which would appear to fall within this definition which are not being investigated pursuant to s.19. Correspondence on this matter was forwarded to the Commissioner March 27, 1995, copy enclosed.

The Interim Instruction as well states that *"a copy of the investigation report, together with the response to any recommendations, shall be forwarded through the Deputy Commissioner of the region or the Commissioner to the Correctional Investigator"*. The Office continues to receive the vast majority of s.19 Investigation Reports absent of comment from the convening authority or response to the recommendations and follow-up action.

In terms of the Service's "review" of its investigative process, which was given

this Office's total support in last year's Annual Report, there have been a number of beginnings but to date no finalization:

- the Office was invited in April of last year to participate in a focus group on the issue of re-engineering the Service's investigative process.
- following a meeting with the Assistant Commissioner Corporate Review, the Office was provided with an EXCOM Proposal to Introduce A Process For Investigations Follow-Up in September of last year.
- the Office in November of last year met with a consultant employed by CSC to conduct a review of the Correctional Service of Canada's investigative process.
- in March of this year, we were provided a copy of the consultant's report.

What is the current status of the Service's review of its Investigative Process?

17. VISITS TO DISSOCIATION AND DELEGATION

The Commissioner issued an instruction relevant to this matter December 22, 1994 which reads in part:

I expect Wardens and Deputy Wardens to visit the segregation area at least once a week, unless there are convincing reasons to the contrary. I expect this to be a full visit to include, as a minimum, an inspection of the area, review of logs, meeting with staff, and making oneself available to inmates. I would ask Deputy Commissioners to join me in checking the log when we are visiting institutions to confirm that this is happening. This does not obviate the requirement for a daily visit by a Unit Manager as the CD requires.

In a year's time, I will re-address this matter and, if it remains a troublesome issue, the CD will be changed.

This is a positive direction. The objective of this Office was to ensure the ongoing presence of senior management, as called for by the Act, in the segregation area. The issue now is, will the direction be complied with and will the presence of senior management in the segregation area assist in alleviating those areas of concern associated with segregation? In this regard, I am encouraged by the fact that the Commissioner has undertaken to re-address this matter in a year's time.

CONCLUSION

The Commissioner's Responses of both October 1994 and March 1995 are consistent with CSC's past performances. The Responses have avoided the substance of the issues at question including a failure to address the specific observations and recommendations contained in last year's Annual Report. The Responses are defensive, displays little if any appreciation for the history or significance of the issues at question and provides at best a further string of endless promises of future action, with no indication as to expected results or how the results of these proposed actions will be measured or analyzed.

The Office has two key areas of focus:

- a) the Correctional Service of Canada's delayed, indifferent responses to concerns, individual and systemic, which are referred from this Office, and*
- b) the issue of overcrowding;*
 - its impact on the individual inmate and on CSC's ability to reasonably manage the population; and*
 - its causes, which are to a great extent controllable through the reasonable and timely management of the inmate population.*

To ensure that these Issues are reasonably addressed, the Service must turn its attention to the specifics identified within the Annual Reports and cease its current practice of approaching the Issues in an overly generic and isolated fashion. I am hopeful that a focusing on the specifics of the Issues will assist in ensuring not only that these systemic concerns are reasonably addressed but that individual inmate concerns, associated with these Issues, can be dealt with in a timely and responsive fashion.



Correctional Service
Canada

Service correctionnel
Canada

APPENDIX L

Commissioner

Commissaire

Ottawa, Canada
K1A 0P9

Your file Votre référence

MAY 18 1995 Our file Notre référence

Mr. Ron Stewart
Correctional Investigator
Office of the Correctional Investigator
275 Slater Street, 4th Floor
Ottawa, Ontario
K1P 5H9

Dear Ron,

Thank you for providing us with a copy of your working paper on the Annual Report 1994/95. We have reviewed it in detail. Our comments topic-by-topic are enclosed. Where possible, we have kept our comments within the range typically published by the Auditor General to facilitate verbatim inclusion. This you will appreciate has been hard to do since there are few lines in your report that do not contain criticisms. We have had to overlook many.

The one very long response is the one on double-bunking since I believe your draft underestimates the complexity of the issue and our efforts to address them.

To us, the most important response is the one under "Introduction" That I believe will help the reader to see the significant difference between our two perspectives, a difference I am increasingly realizing explains just how difficult it is for our two agencies to agree on what needs to be done in respect of the issues you report each year.

Canada

As you finalize the report, we would want to know what changes are made to any comment that is critical of CSC or any of its employees. Such changes may warrant additional responses and adjustments to the attached responses which have been shaped specifically by the content of the Working Paper. This would be consistent with Section 195 of the CCRA which gives us the chance to make representations on any comment or information in your final report.

We would also appreciate knowing in advance the manner in which our representations are embodied into the report. This move to conformity with Section 195 is new terrain for both agencies. The one guidepost I tend to follow is that of the Auditor General.

I do hope that these comments will have an impact on the tone and civility of your final report.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'John Edwards', with a stylized, cursive script.

John Edwards

Correctional Service of Canada

Comments on issues raised in Correctional Investigator Annual Report 1994/95

Introduction:

The thrust of the adverse comments contained in this report reflect a view held by the Correctional Investigator of the Correctional Service of Canada that is so different from that of the Correctional Service of Canada as to make effective and agreed upon progress on the issues very difficult.

While the Correctional Service certainly makes mistakes and is trying to make progress in many areas, it does see itself as:

- ◆ one of the world's leading correctional systems in terms of facilities, programming, research and resources;
- ◆ having state-of-the-art risk assessment tools which address the key issues of public safety;
- ◆ having state-of-the-art programming which, despite budget reductions, has been steadily increasing, both inside its prisons and in the community for those offenders on conditional release;
- ◆ having generous policies vis-à-vis inmate pay, personal effects, temporary absences, private family visits, small unit housing, health care and many others;
- ◆ having a substantial array of checks against arbitrary treatment of inmates --complaints to members of Parliament, the Correctional Investigator and his office, an elaborate and heavily used grievance process, independent chairpersons to hear disciplinary cases, ready access to legal aid to pursue issues with the courts, and the opportunity to express views to the media.

The Correctional Service cannot accept the general negativism of the Correctional Investigator's observations. Many just do not seem to be linked to the realities within which the Correctional Service must work:

- ◆ realities of funding, realities of deeply held conflicting public views about the treatment of offenders in which serious violent offenders are growing in number, realities of changes in the mix of offenders;
- ◆ realities of implementing significant large improvements to our information systems; and
- ◆ realities of managing a large and complex operation.

The Correctional Investigator accuses the Service of a general failure to act on his findings. A review of his past three annual reports will show that the Service has taken steps in various policy and administrative areas:

- ◆ the review of medical grievances at regions;
- ◆ the review of medical grievances at CSC policy on complaint litigation;
- ◆ CSC policy on disciplinary dissociation;
- ◆ identifying and beginning implementation of a strategic approach to redress through informal problem resolution;
- ◆ clear guidelines for humanitarian ETA's;
- ◆ the gender change policy;
- ◆ offender pay for selected women at Prison for Women
- ◆ officer identification; and
- ◆ reconfirmation of policy on not using drugs as a negotiating tool in hostage takings.

1. SHU's:

The SHU Review Committee pursues a policy of ensuring that only those inmates who require intensive supervision are kept in the SHU's. The numbers in the Quebec facility have been declining steadily from a high of 63 in April, 1991 to the present level of 45. The numbers in the Prairie region reached a high of 74 in February, 1995, but have since been reduced to 60.

The rights of individuals placed in SHU's are scrupulously observed. Violent inmates will not be returned to reduced security until they have demonstrated that they have reduced their potential to commit violent acts by adhering to a correctional plan and benefiting from the programs or interventions that have been identified to help address the causes of their violent behavior.

Both facilities have increased programming to address the identified needs of the inmates. These include anger management, living skills and education.

Inmates who choose to follow their correctional plans and show improvement can be granted extended privileges leading to return to maximum security. Both facilities report that a number of inmates refuse to participate in either needs assessment or programming and therefore cannot be assessed in terms of reduced risk. As such they remain a danger to others.

The level of serious incidents in maximum and medium security institutions, despite overcrowding, has not been increasing. It is believed this is due, in part, to removing from their populations the most violent inmates and maintaining them in Special Handling Units.

2. Inmate Pay:

Policy making in the 1990's includes careful consideration of law, research, operations, political leadership, and public views. None of these can be ignored. CSC acknowledges inmates have not received a pay increase since 1986, but inmate pay has not been reduced or eliminated as has been happening in some provincial jurisdictions. The Service has made adjustments to distribute pay based on inmates following a correctional plan leading to safe re-integration to the community. This is being achieved without any increase in the overall pay budget.

3. Grievance Process:

The direction and the commitment of the Service regarding offender redress is clear. Development of the revised grievance system resulted from a recent review which went beyond the scope of previous studies and focused on root issues. The revised grievance system is expected to have more inmate problems resolved informally. We believe that we have the support of the Correctional Investigator for this change.

Movement towards a revised grievance system has included establishment of institutional pilots to model informal resolution. In order to implement this model, the Service has prepared a training package for staff, provided conflict resolution training for a number of managers, and applied mediation to selected 3rd level grievances and to other written or verbal complaints. The development of the Inmate Redress Information System in an OMS-based format will enable improved report generation for better analysis.

The Correctional Service of Canada does not accept that the current grievance process is in violation of the CCRA. A comprehensive system which compares favorably with other jurisdictions is currently in place and is, in the main, being used effectively at all levels by offenders. Some increased usage of the system is in part related to CCRA allowing offenders "complete access" to the grievance process as of 1992. A number of high frequency users of the system are clearly interfering with reasonable access to the system by others.

Since 1982, first level complaints have gradually increased from 10,000 to 14,500. More than 60% of these were resolved locally and did not proceed to the higher levels of the grievance process. The system has been consistently used by approximately half the population, and in most cases used effectively.

The allocation of additional resources allowed the grievance backlog at 3rd level to be reduced from about 250 in September, 1994 to some 60 grievances in late November, 1994. The reduction in backlog has occurred despite receiving 1029 grievances at 3rd level in 1994-95, an increase of 12% over 1992-93 and 18% over 1991-92, albeit less than the 1237 received in 1993-94 which was the primary cause of the backlog. The average number of days to respond to a 3rd level grievance is now 50-60 days, down from 100-200 days a few months ago. The backlog at 3rd level remains at about 60 grievances.

The Service currently devotes about 40 FTEs to administer the grievance system at all levels and to investigate at 2nd and 3rd levels. That figure does not include the time provided by inmates and operational staff in problem solving and investigating, nor the time of managers in reviewing and monitoring the process. At the 3rd level, 6 FTEs were allocated to Inmate Affairs in 1990-91 and 1991-92. This was increased to 8 in 1992-93, 1993-94 and 1994-95. A further increase to 9 FTEs was approved for this year.

4. Case Preparation & Mental Health Programming:

The Service's approach to programming has been strategic, not ad hoc as seen by the Correctional Investigator. This area of activity is far too complex to be addressed by any single simplistic solution. We have implemented a number of related projects to address the central questions:

What are the right programs for offenders with particular risk/need profiles ?	CSC has contributed to and is using the best research available in this area. That research has lead to better targeting of program interventions on those individuals who have the highest need in relation to their criminal behavior. It has also helped to identify those types of offenders for whom programming is either not needed or unlikely to produce change. Clear standards and guidelines have been developed for psychological interventions and sexual offender interventions. These are now being implemented. Work designed to improve the targeting of substance abuse programming will be complete in June and implemented during the following few months. Research is underway regarding violent offenders. Education programming has been targeted at assisting offenders to obtain employment readiness levels (ABE). Aboriginal and women specific programs are being developed and piloted.
What are the risks and needs presented by offenders ?	After several years of intensive development and testing, in November 1994 a comprehensive Offender Intake Assessment process was implemented at all reception centers. Over 1,400 offenders have received this assessment which leads to a clear description of the risks the offender presents and the needs to be addressed through programs. A similar profile of offenders admitted prior to November will be generated by early fall 1995.

When should programming occur for each offender ?

A revised Correctional Plan process was introduced in the fall of 1994. This process assists staff to assess in which programs an offender should be enrolled and at what point in the sentence. While the OM system does not yet fully support the process and generate all of the required monitoring data, CSC has not stood still waiting for the system to become fully functional.

How effective are the programs ?

Longitudinal studies are underway with one focusing on employment scheduled for completion in 1995. Shorter term effectiveness studies are underway or are part of the Research Plan for 1995-96.

In March, 1995, the Service described for the Correctional Investigator a number of initiatives underway or complete to improve information sharing and analysis for the National Parole Board as well as streamlining the process of case management. All of these actions reflect a multi-faceted, strategic approach to a complex area of work. No facet can ever be seen as complete because each must be improved as new knowledge is obtained.

Finally, in response to the need to ensure efficient case work and effective information sharing with NPB, police, and others working with offenders, the Service has developed the Offender Management System, and related administrative agreements and standards describing the file and information sharing requirements of all parties.

The Offender Management System is now a sound Canada wide system effectively serving front line workers in managing the offender population. - 2500 users log on each day to process 10,000 offender transactions. The Service acknowledges delays in the management information component of the system and shares the Correctional Investigator's frustration.

5. Double-Bunking/Overcrowding

The Service does not agree that the causes of the population increase have been left to speculation as suggested by the Correctional Investigator. The factors that have contributed to the growth in population include the number of offenders admitted to federal custody, the nature of the offences committed and the offenders committing them, the length of the sentences imposed and the type of interventions required in order to address the causes of an offenders criminality prior to release to the community. The

Service recognizes the need to understand as fully as possible the factors contributing to population growth yet experience shows that an exhaustive analysis is far more difficult than the Correctional Investigator implies. As such, the Correctional Investigator's interpretation of this data is but one of many.

The Correctional Service has experienced a higher increase than was forecast in admissions to federal institutions though preliminary data suggests this may have begun to change in recent months in some parts of the country. Every year from 1986/87 to 1993/94 the number of Warrant of Committal admissions have increased and upward pressure has been compounded in the last few years by a rise in revocations. While it is unlikely that the number of revocations will continue to rise, Warrant of Committal admissions will likely continue to increase with changes being planned and implemented in legislation.

We agree that there has been a decline in the number of parole releases. This is in part due to the fact that over the past 9 years there has been an increase in the number of offenders being sentenced to federal custody for violent crimes. With these type of offences there is greater need for programming and a growing demand for access to them, with a consequent delay as to when a release can be effected and an offender safely managed in the community

The median sentence length for inmates admitted to federal penitentiaries, while stable for many years, has shown some tendency to increase in recent times; for example from 43.4 months in 1992/93 to 46.3 months in 1993-94. This represents an increase of 6.7%.¹

Since 1980, the population of offenders serving life sentences has continued to grow to a point where there are presently over 3000 under the jurisdiction of CSC. Over 2000 of these inmates are incarcerated, representing a significant and growing demand for facilities and services. Inmates serving life sentences represent approximately 15% of the total inmate population and this will continue to rise to perhaps 3000 or so at which point there the number being released to match the new ones arriving. Of course, this could go higher should changes be made to Section 745 of the criminal code, to place further restrictions on parole as a current private member's bill proposes.

¹ Adult Correctional Services in Canada Canadian Centre for Justice Statistics 1993-94

There have been approximately 1200 offenders referred by CSC to NPB for detention since 1989. Of those referred, the proportion of detention decisions has continually risen since 1989 from 64% to 89% in 1993/94. Of these, more than 60% are sex offenders. The number of detention referrals continues to increase each year. The rate of detention has increased markedly and the use of other possible decisions, such as residency has shown corresponding decreases.

The Correctional Service does not agree that crowding in institutions could be readily resolved by administrative actions on its part alone. Eligibility for a conditional release is set by law. Decisions made by the Service with respect to recommendations for release and the return of offenders to incarceration from conditional release must always be based on an assessment of the risk posed by an offender and the capacity for that risk to be managed. Public safety is paramount.

Of the 4, 276 federal offenders on full parole in April 1995, about 60% had served less than 40% of their sentence prior to release. It is important to recognize that the CSC is dealing with a much more difficult population. It is not an issue of depending on an extended period to program, but the need to program sufficiently before release can be considered, including release for participation in community-based relapse prevention programs. At the same time, the Service recognizes the desirability of continuity of programming and the value of programs delivered in the community for those whose risk can be managed there. For example, 600 sex offenders can now receive treatment in the community where only five years ago no such capacity was available.

We recognize that there are many offenders in institutions who are past their parole eligibility date, but to assume they should be released is neither realistic nor reasonable in light of the continued risk they pose to public safety. Those who are past their parole eligibility date include those who are detained, those who have been denied a conditional release, those who had been released but failed to abide by conditions or committed another offence, those who it has been deemed require further programming before their risk to society can be managed in a community setting, and, in some cases, those for whom no amount of programming will reduce risk to a tolerable level.

The federal full parole grant rate may fluctuate over the years based on a number of factors including the nature of the inmate population and legislative change. Since 1982/83, the federal full parole grant rate has remained relatively constant, with an average rate of 34%.

CSC is working to ensure timely release decisions by:

- ◆ streamlining of case management;
- ◆ harmonization of information requirements with the National Parole Board;
- ◆ recent commencement of a program using the OMS to monitor each month a random sample of cases where inmates have passed their parole eligibility date without having a parole hearing;

While striving to release inmates when programs have been provided and risk is tolerable, the Service is also moving to ensure its accommodation policies respond in a humane and effective way to crowding.

New Accommodation Policies were issued in February, 1995. Their full impact will become apparent over the coming months, particularly as the numerous steps to reduce population pressures occur (leasing provincial facilities, expanding existing facilities, transfers, temporary dormitories).

Already some implementation has occurred. For example, in Kingston Penitentiary which has some of the smallest cells, the number of double-bunked cells has been reduced. The overall population is now at 438 where not so long ago it was over 500. By this Fall, no inmates will be double-bunked in cells of less than five square meters.

In the Introduction of this report, the Correctional Investigator describes the overcrowding as a crisis and explosive. The Service does not agree it is a crisis though it is the major issue the Service faces. While any high security prison can become explosive, an examination of major incidents shows that the number has not increased at all over the past four years. We agree that the reference to the Auditor General unintentionally went beyond the wording in his report.

6. TA Programming:

Effective May 12, 1995, the Executive Information System contains a statistical module related to the TA program.

The Service sees the temporary absence program as highly successful. The rate of completion without breaches of conditions has been steadily above 98%). Its success has been due to the care with which the risk assessment is made. We are not detecting any significant problem with TA's.

The Correctional Investigator has asked legitimate questions and, given its views, an evaluation will be launched as part of the 1995-96 Plan by the Correctional Research and Development Sector. The project will commence this Fall.

7. Transfers:

Transfer decisions are made on the basis of public safety and needs of inmates.

The study on the Custody Rating Scale and the Reclassification Process was approved as part of the Correctional Research and Development Plan for FY 1995-96. The study has commenced the following phases:

- review, revision and revalidation of the Custody Rating Scale - April to September;
- development of a more objective reclassification tool - June to October;
- consultation on the new tool with staff - November to December;
- pilot testing of tool - January and February;
- revisions and training - February and March;
- implementation - April 1996.

The results of this project will be a more objective, more transparent process for initial placement decisions and subsequent reclassifications and transfers. Although one cannot and should not remove the element of professional judgment from such decisions, the increased objectivity should contribute to fewer disputed decisions.

It is not surprising that, given the proportion of transfers that are refused, complaints are high. We spend \$200-\$300K on transfers not including the salary costs of CSC escorts. Most transfers are in response to requests from inmates.

8. Personal Effects:

CSC is wrestling with the rapidly changing world of technology and its potential impacts, both positive and negative. Our own experiences, as well as those of the Federal Bureau of Prisons, have clearly documented that there is an inherent risk associated with the use of computers by inmates. At present, about 500 inmate owned computers are in institutions. There have been, in each region, incidents where inmate access to computers has been a key element in attempted criminal or inappropriate behavior. The risks of these types of incidents will increase if cell effect technology is allowed to expand without appropriate action to control the risks presented.

We recognize that there are significant program and development gains to be achieved by inmates acquiring computer skills. These can and are being met outside of cells, e.g. education, work locations, special computer centers.

The Service is developing policy on computer inmate access to technology so as to bring more consistency of practice across the country. It is seeking a balance that will protect security and yet have as much flexibility for inmates as possible. This work must also now consider the impact of overcrowding on the management of computers and other personal effects.

The Service has decided that VCRs will not be permitted as personal effects and the CD has been amended to that effect.

9. Pay Policy for Unemployed Inmates

Inmate pay is a valid incentive for work and program participants. The Service believes it is more than reasonable to encourage and assist inmates to safely re-integrate to the community by following a correctional plan. This is not "forced treatment" any more than income for employment is "forced labor". It is using all means at our disposal to prepare inmates for safe return to the community, thus increasing our contribution to public safety. Therefore, inmate pay is a valid disincentive for refusal to work and incentive to participate in a correctional plan.

The Service is planning to adjust the pay budget so that those inmates who do not have work through no fault of their own receive a daily allowance of \$2.65 rather than \$1.60. This will be achieved without any increase in the overall pay budget.

10. Criteria for Humanitarian Escorted Temporary Absences

In spite of the obvious need to respond sensitively to a death in the family of an inmate, wardens must balance the continued need for public safety at times of high stress for the inmates.

Seven cases have been referred by the Correctional Investigator since April, 1993:

- in three cases the review confirmed that the Warden's decision, which preceded the guidelines, was consistent with the CD;
- in one case the Service agreed with the Correctional Investigator's analysis, reminded the Warden of policy and directed a graveside visit;
- in one case the review concluded that the Warden's decision was consistent with the guidelines and the CD;
- one case was not re-opened as it was simply too old; and
- in the final case the review is still underway.

With the exception of the case of the inmate whose request led to the development of the guidelines, the interval between receipt of the Correctional Investigator's letter and the Service's reply, i.e. the time for investigation and response was between 23 and 61 days. We do not consider that response time to be "excessively delayed" given that in such cases the National Headquarters must work with the institution concerned.

11. Hostage-Taking- Saskatchewan Penitentiary:

The Preventive Security Standards have been completed. The distribution to Institutions of computer discs containing the Standards and the placement of the Standards on CSC's Strategic Information Network has been just and complete. As with any Standards, they must be regularly reviewed and changed as necessary. For the remaining issues relating to this 1991 incident, the Service and the Correctional Investigator have long disagreed.

12. Mental Incompetence:

No comment required

13. Officer Identification:

Revised

The policy of wearing name tags is to be found in CSC's Dress and Department Guide. Wardens are expected to take action when they are made aware of non-compliance. If Correctional Investigator analysts observe non compliance, they should raise the issue with the Warden.

14. Disciplinary Court Decisions:

The policy of properly maintaining records of Disciplinary Court decisions is to be found in CD 580. Wardens are expected to take action when they are made aware of non compliance. If Correctional Investigator analysts observe non compliance, they should raise the issue with the Warden. The Service did conduct a review of CCRA regulations which included a review of the regulations governing inmate discipline.

A full scale audit of the process was done in 1992. It was decided in December, 1993 that a further review of this function, including examination of the regulations, should await use of the process under CCRA, and appointment and necessary training of new ICPs.

15. Use of force investigations and follow-up:

In any instance of the use of force, a report must be forwarded to the institutional head and the incident must be recorded in the Offender Management System according to CD 605. The reporting of the incident requires a full description of the incident and observations/comments from health care and supervisory staff and requires that the inmate is advised that he may provide his version of the incident to the institutional head.

If no one has been injured, if the information is deemed sufficient, and if the inmate has raised no objections, the institutional head may conclude that there is no need for further inquiry. If any injury has resulted or if questions remain, an inquiry will be convened at the local, regional or national level depending on the nature of the incident. This approach allows the institutional head the flexibility required to effectively operate the institution.

If corrective action is required following any review of incidents of the use of force, the institutional head is responsible for ensuring that this action is taken.

As the information is available on the Offender Management System, the Service will initiate steps to include the information in the Executive Information System. This will allow for the monitoring and analysis of the incidents of use of force at the institutional, regional and national levels.

If the Correctional Investigator becomes aware of failures to comply with the stated policy, he is encouraged to bring this to the attention of the Warden.

16. Inmate Injuries:

On January 12, 1995, the report on the review of the investigation process was submitted. On March 8, a copy of the report was sent to the Correctional Investigator. Most of the 71 recommendations of the report have been accepted verbatim, and action plans have been developed. Some recommendations have already been implemented.

17. Visits to dissociation:

No comment required.

APPENDIX E

Third Session, Thirty-fourth Parliament
40-41 Elizabeth II, 1991-92

STATUTES OF CANADA 1992

CHAPTER 20

An *Act* respecting corrections and the conditional release and detention of
offenders and to establish the office of the Correctional Investigator

BILL C-36

ASSENTED TO 18th JUNE, 1992

PART III
CORRECTIONAL INVESTIGATOR

Interpretation

Definitions

157. In this Part,

"Commissioner"	"Commissioner" has the same meaning as in Part I;
"Correctional Investigator"	"Correctional Investigator" means the Correctional Investigator of Canada appointed pursuant to section 158;
"Minister"	"Minister" has the same meaning as in Part I;
"offender"	"offender" has the same meaning as in Part II;
"parole"	"parole" has the same meaning as in Part II;
"penitentiary"	"penitentiary" has the same meaning as in Part I;
"provincial parole board"	"provincial parole board" has the same meaning as in Part II.

CORRECTIONAL INVESTIGATOR

Appointment

158. The Governor in Council may appoint a person to be known as the Correctional Investigator of Canada.

Eligibility

159. A person is eligible to be appointed as Correctional Investigator or to continue in that office only if the person is a Canadian citizen ordinarily resident in Canada or a permanent resident as defined in subsection 2(1) of the *Immigration Act* who is ordinarily resident in Canada.

Tenure of office and removal

160. (1) The Correctional Investigator holds office during good behaviour for a term not exceeding five years, but may be suspended or removed for cause at any time by the Governor in Council.

Further terms

(2) The Correctional Investigator, on the expiration of a first or any subsequent term of office, is eligible to be re-appointed for a further term.

Absence, incapacity or vacancy

161. In the event of the absence or incapacity of the Correctional Investigator, or if the office of Correctional Investigator is vacant, the Governor in Council may appoint another qualified person to hold office instead of the Correctional Investigator during the absence, incapacity or vacancy, and that person shall, while holding that office, have the same functions as and all of the powers and duties of the Correctional Investigator under this Part and be paid such salary or other remuneration and expenses as may be fixed by the Governor in Council.

Devotion to duties

162. The Correctional Investigator shall engage exclusively in the function and duties of the office of the Correctional Investigator and shall not hold any other office under Her Majesty in right of Canada or a province for reward or engage in any other employment for reward.

Salary and expenses

163. (1) The Correctional Investigator shall be paid such salary as may be fixed by the Governor in Council and is entitled to be paid reasonable travel and living expenses incurred in the performance of duties under this Part.

Pension Benefits

(2) The provisions of the *Public Service Superannuation Act*, other than those relating to tenure of office, apply to the Correctional Investigator, except that a person appointed as Correctional Investigator from outside the Public Service, as defined in subsection 3(1) of the *Public Service Superannuation Act*, may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of appointment, elect to participate in the pension plan provided for in the *Diplomatic Service (Special) Superannuation Act*, in which case the provisions of that *Act*, other than those relating to tenure of office, apply to the Correctional Investigator from the date of appointment and the provisions of the *Public Service Superannuation Act* do not apply.

Other Benefits

(3) The Correctional Investigator is deemed to be employed in the public service of Canada for the purposes of the *Government Employees Compensation Act* and any regulations made under section 9 of the *Aeronautics Act*.

MANAGEMENT

Management

164. The Correctional Investigator has the control and management of all matters connected with the office of the Correctional Investigator.

STAFF

Staff of the Correctional Investigator

165.(1) Such officers and employees as are necessary to enable the Correctional Investigator to perform the function and duties of the Correctional Investigator under this Part shall be appointed in accordance with the *Public Service Employment Act*.

Technical assistance

(2) The Correctional Investigator may engage on a temporary basis the services of persons having technical or specialized knowledge of any matter relating to the work of the Correctional Investigator to advise and assist the Correctional Investigator in the performance of the function and duties of the Correctional Investigator under this Part and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of those persons.

OATH OF OFFICE

Oath of Office

166. The Correctional Investigator and every person appointed pursuant to section 161 or subsection 165(1) shall, before commencing the duties of office, take the following oath of office:

"I, (name), swear that I will faithfully and impartially to the best of my abilities perform the duties required of me as (Correctional Investigator, Acting Correctional Investigator or officer or employee of the Correctional Investigator). So help me God."

FUNCTION

Function

167.(1) It is the function of the Correctional Investigator to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner or any person under the control and management of, or performing services for or on behalf of, the Commissioner that affect offenders either individually or as a group.

Restrictions

(2) In performing the function referred to in subsection (1), the Correctional Investigator may not investigate

- (a) any decision, recommendation, act or omission of
 - (i) the National Parole Board in the exercise of its exclusive jurisdiction under this *Act*, or
 - (ii) any provincial parole board in the exercise of its exclusive jurisdiction
- (b) any problem of an offender related to the offender's confinement in a provincial correctional facility, whether or not the confinement is pursuant to an agreement between the federal government and the government of the province in which the provincial correctional facility is located; and
- (c) any decision, recommendation, act or omission of an official of a province supervising, pursuant to an agreement between the federal government and the government of the province, an offender on temporary absence, parole, statutory release subject to supervision or mandatory supervision where the matter has been, is being or is going to be investigated by an ombudsman of that province.

Exception

(3) Notwithstanding paragraph (2)(b), the Correctional Investigator may, in any province that has not appointed a provincial parole board, investigate the problems of offenders confined in provincial correctional facilities in that province related to the preparation of cases of parole by any person under the control and management of, or performing services for or on behalf of, the Commissioner.

Application to Federal Court

168. Where any question arises as to whether the Correctional Investigator has jurisdiction to investigate any particular problem, the Correctional Investigator may apply to the Federal Court for a declaratory order determining the question.

INFORMATION PROGRAM

Information Program

169. The Correctional Investigator shall maintain a program of communicating information to offenders concerning

- (a) the function of the Correctional Investigator;
- (b) the circumstances under which an investigation may be commenced by the Correctional Investigator; and
- (c) The independence of the Correctional Investigator.

INVESTIGATIONS

Commencement

170.(1) The Correctional Investigator may commence an investigation

- (a) on the receipt of a complaint by or on behalf of an offender;
- (b) at the request of the Minister; or
- (c) on the initiative of the Correctional Investigator.

Discretion

(2) the Correctional Investigator has full discretion as to

- (a) whether an investigation should be conducted in relation to any particular complaint or request;
- (b) how every investigation is to be carried out; and
- (c) whether any investigation should be terminated before its completion.

Right to hold hearing

171.(1) In the course of an investigation, the Correctional Investigator may hold any hearing and make such inquiries as the Correctional Investigator considers appropriate, but no person is entitled as of right to be heard by the Correctional Investigator.

Hearings to be in camera

(2) Every hearing held by the Correctional Investigator shall be *in camera* unless the Correctional Investigator decides otherwise.

Right to require information and documents

172.(1) In the course of an investigation, the Correctional Investigator may require any person (a) to furnish any information that, in the opinion of the Correctional Investigator, the person may be able to furnish in relation to the matter being investigated; and (b) subject to subsection (2), to produce, for examination by the Correctional Investigator, any document, paper or thing that in the opinion of the Correctional Investigator relates to the matter being investigated and that may be in the possession or under the control of that person.

Return of document, etc.

(2) The Correctional Investigator shall return any document, paper or thing produced pursuant to paragraph (1)(b) to the person who produced it within ten days after a request therefor is made to the Correctional Investigator, but nothing in this subsection precludes the Correctional Investigator from again requiring its production in accordance with paragraph (1)(b).

Right to make copies

(3) The Correctional Investigator may make copies of any document, paper or thing produced pursuant to paragraph (1)(b).

Right to examine under oath

173.(1) In the course of an investigation, the Correctional Investigator may summon and examine on oath (a) where the investigation is in relation to a complaint, the complainant, and (b) any person who, in the opinion of the Correctional Investigator, is able to furnish any information relating to the matter being investigated, and for that purpose may administer an oath.

Representation by counsel

(2) Where a person is summoned pursuant to subsection (1), that person may be represented by counsel during the examination in respect of which the person is summoned.

Right to enter

174. For the purposes of this Part, the Correctional Investigator may, on satisfying any applicable security requirements, at any time enter any premises occupied by or under the control and management of the Commissioner and inspect the premises and carry out therein any investigation or inspection.

FINDINGS, REPORTS AND RECOMMENDATIONS

Decision not to investigate

175. Where the Correctional Investigator decides not to conduct an investigation in relation to a complaint or a request from the Minister or decides to terminate such an investigation before its completion, the Correctional Investigator shall inform the complainant or the Minister, as the case may be, of that decision and, if the Correctional Investigator considers it appropriate, the reasons therefor, providing the complainant with only such information as can be disclosed pursuant to the *Privacy Act* and the *Access to Information Act*.

Complaint not substantiated

176. Where, after conducting an investigation in relation to a complaint, the Correctional Investigator concludes that the complaint has not been substantiated, the Correctional Investigator shall inform the complainant of that conclusion and, where the Correctional Investigator considers it appropriate, the reasons therefor, providing the complainant with only such information as can be disclosed pursuant to the *Privacy Act* and the *Access to Information Act*.

Informing of problem

177. Where, after conducting an investigation, the Correctional Investigator determines that a problem referred to in section 167 exists in relation to one or more offenders, the Correctional Investigator shall inform

- (a) the Commissioner, or
- (b) where the problem arises out of the exercise of

a power delegated by the Chairperson of the National Parole Board to a person under the control and management of the Commissioner, the Commissioner and the Chairperson of the National Parole Board of the problem and the particulars thereof.

Opinion re decision,
recommendation, etc.

178.(1) Where, after conducting an investigation, the Correctional Investigator is of the opinion that the decision, recommendation, act or omission to which a problem referred to in section 167 relates

- (a) appears to have been contrary to law or to an established policy,
- (b) was unreasonable, unjust, oppressive or improperly discriminatory, or was in accordance with a rule of law or a provision of any *Act* or a practice or policy that is or may be unreasonable, unjust, oppressive or improperly discriminatory, or
- (c) was based wholly or partly on a mistake of law or fact,

the Correctional Investigator shall indicate that opinion, and the reasons therefor, when informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of the problem.

Opinion re exercise of
discretionary power

(2) Where, after conducting an investigation, the Correctional Investigator is of the opinion that in the making of the decision or recommendation, or in the act or omission, to which a problem referred to in section 167 relates to a discretionary power has been exercised

- (a) for an improper purpose,
- (b) on irrelevant grounds,
- (c) on the taking into account of irrelevant considerations, or

(d) without reasons having been given,
the Correctional Investigator shall indicate that opinion, and the reasons therefor, when informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of the problem.

Recommendations

179.(1) When informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of a problem, the Correctional Investigator may make any recommendation that the Correctional Investigator considers appropriate.

Recommendations in relation to decision, recommendation, etc.

(2) In making recommendations in relation to a decision, recommendation, act or omission referred to in subsection 167(1), the Correctional Investigator may, without restricting the generality of subsection (1), recommend that

- (a) reasons be given to explain why the decision or recommendation was made or the act or omission occurred;
- (b) the decision, recommendation, act or omission be referred to the appropriate authority for further consideration;
- (c) the decision or recommendation be cancelled or varied;
- (d) the act or omission be rectified; or
- (e) the law, practice or policy on which the decision, recommendation, act or omission was based be altered or reconsidered.

Recommendations not binding

(3) Neither the Commissioner nor the Chairperson of the National Parole Board is bound to act on any finding or recommendation made under this section.

Notice and report to Minister

180. If, within a reasonable time after informing the Commissioner, or the Commissioner and the Chairperson of the National Parole Board, as the case may be, of a problem, no action is taken that seems to the Correctional Investigator to be adequate and appropriate, the Correctional Investigator shall inform the Minister of that fact and provide the Minister with whatever information was originally provided to the Commissioner, or the Commissioner and the Chairman of the National Parole Board, as the case may be.

Complainant to be informed
of result of investigation

181. Where an investigation is in relation to a complaint, the Correctional Investigator shall, in such manner and at such time as the Correctional Investigator considers appropriate, inform the complainant of the results of the investigation, providing the complainant with only such information as can be disclosed pursuant to the *Privacy Act* and the *Access to Information Act*.

CONFIDENTIALITY

Confidentiality

182. Subject to this Part, the Correctional Investigator and every person acting on behalf or under the direction of the Correctional Investigator shall not disclose any information that comes to their knowledge in the exercise of their powers or the performance of their functions and duties under this Part.

Disclosure authorized

183.(1) Subject to subsection (2), the Correctional Investigator may disclose or may authorize any person acting on behalf or under the direction of the Correctional Investigator to disclose information

(a) that, in the opinion of the Correctional Investigator, is necessary to

(i) carry out an investigation, or

(ii) establish the grounds for findings and recommendations made under this Part; or

(b) in the course of a prosecution for an offence under this Part or a prosecution for an offence under section 131 (perjury) of the *Criminal Code* in respect of a statement made under this Part.

Exceptions

(2) The Correctional Investigator and every person acting on behalf or under the direction of the Correctional Investigator shall take every reasonable precaution to avoid the disclosure of, and shall not disclose, any information the disclosure of which could reasonably be expected (a) to disclose information obtained or prepared in the course of lawful investigations pertaining to

- (i) the detection, prevention or suppression of crime,
- (ii) the enforcement of any law of Canada or a province, where the investigation is ongoing; or
- (iii) activities suspected of constituting threats to the security of Canada within the meaning of the *Canadian Security Intelligence Service Act*,
if the information came into existence less than twenty years before the anticipated disclosure;
- (b) to be injurious to the conduct of any lawful investigation;
- (c) in respect of any individual under sentence for an offence against any *Act* of Parliament, to
 - (i) lead to a serious disruption of that individual's institutional or conditional release program, or
 - (ii) result in physical or other harm to that individual or any other person;
- (d) to disclose advice or recommendations developed by or for a government institution within the meaning of the *Access to Information Act* or a minister of the Crown; or
- (e) to disclose confidences of the Queen's Privy Council for Canada referred to in section 196.

Definition of "investigation"

- (3) For the purposes of paragraph (2)(b), "investigation" means an investigation that
- (a) pertains to the administration or enforcement of an *Act* of Parliament or of a province; or
 - (b) is authorized by or pursuant to an *Act* of Parliament or of a province

Letter to be unopened

184. Notwithstanding any provision in any *Act* or regulation, where
- (a) a letter written by an offender is addressed to the Correctional Investigator, or
 - (b) a letter written by the Correctional Investigator is addressed to an offender, the letter shall immediately be forwarded unopened to the Correctional Investigator or to the offender, as the case may be, by the person in charge of the institution at which the offender is incarcerated.

DELEGATION

Delegation by Correctional Investigator

185.(1) The Correctional Investigator may authorize any person to exercise or perform, subject to such restrictions or limitations as the Correctional Investigator may specify, the function, powers and duties of the Correctional Investigator under this Part except

- (a) the power to delegate under this section; and
- (b) the duty or power to make a report to the Minister under section 192 or 193.

Delegation is revocable

(2) Every delegation under this section is revocable at will and no delegation prevents the exercise or performance by the Correctional Investigator of the delegated function, powers and duties.

Continuing effect of delegation

(3) In the event that the Correctional Investigator who makes a delegation under this section ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until revoked by a succeeding Correctional Investigator

RELATIONSHIP WITH OTHER ACTS

Power to conduct investigations

186.(1) The power of the Correctional Investigator to conduct investigations exists notwithstanding any provision in any *Act* to the effect that the matter being investigated is final and that no appeal lies in respect thereof or that the matter may not be challenged, reviewed, quashed or in any way called into question.

Relationship with other Acts

(2) The power of the Correctional Investigator to conduct investigations is in addition to the provisions of any other *Act* or rule of law under which

- (a) any remedy or right of appeal or objection is provided for any person, or
- (b) any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Part limits or affects any such remedy, right of appeal, objection or procedure.

LEGAL PROCEEDINGS

Acts not to be questioned or
subject to review

187. Except on the ground of lack of jurisdiction, nothing done by the Correctional Investigator, including the making of any report or recommendation, is liable to be challenged, reviewed, quashed or called into question in any court.

Protection of Correctional
Investigator

188. No criminal or civil proceedings lie against the Correctional Investigator, or against any person acting on behalf or under the direction of the Correctional Investigator, for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any function, power or duty of the Correctional Investigator.

No summons

189. The Correctional Investigator or any person acting on behalf or under the direction of the Correctional Investigator is not a competent or compellable witness in respect of any matter coming to the knowledge of the Correctional Investigator or that person in the course of the exercise or performance or purported exercise or performance of any function, power or duty of the Correctional Investigator, in any proceedings other than a prosecution for an offence under this Part or a prosecution for an offence under section 131 (perjury) of the *Criminal Code* in respect of a statement made under this Part.

Libel or slander

190. For the purposes of any law relating to libel or slander,
(a) anything said, any information furnished or any document, paper or thing produced in good faith in the course of an investigation by or on behalf of the Correctional Investigator under this Part is privileged; and
(b) any report made in good faith by the Correctional Investigator under this Part and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast is privileged.

OFFENCE AND PUNISHMENT

Offences

191. Every person who

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Correctional Investigator or any other person in the exercise or performance of the function, powers or duties of the Correctional Investigator,
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Correctional Investigator or any other person under this Part, or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Correctional Investigator or any other person in the exercise or performance of the function, powers or duties of the Correctional Investigator,

is guilty of an offence punishable on summary conviction and liable to a fine not exceeding two thousand dollars.

ANNUAL AND SPECIAL REPORTS

Annual reports

192. The Correctional Investigator shall, within three months after the end of each fiscal year, submit to the Minister a report of the activities of the office of the Correctional Investigator during that year, and the Minister shall cause every such report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it.

Urgent matters

193. The Correctional Investigator may, at any time, make a special report to the Minister referring to and commenting on any matter within the scope of the function, powers and duties of the Correctional Investigator where, in the opinion of the Correctional Investigator, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for the submission of the next annual report to the Minister under section 192, and the Minister shall cause every such special report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it.

Reporting of public hearings

194. Where the Correctional Investigator decides to hold hearings in public in relation to any investigation, the Correctional Investigator shall indicate in relation to that investigation, in the report submitted under section 192, the reasons why the hearings were held in public.

Adverse comments

195. Where it appears to the Correctional Investigator that there may be sufficient grounds for including in a report under section 192 or 193 any comment or information that reflects or might reflect adversely on any person or organization, the Correctional Investigator shall give that person or organization a reasonable opportunity to make representations respecting the comment or information and shall include in the report a fair and accurate summary of those representations.

CONFIDENCES OF THE QUEEN'S PRIVY COUNCIL

**Confidences of the Queen's
Privy Council for Canada**

196.(1) The powers of the Correctional Investigator under sections 172, 173, and 174 do not apply with respect to confidences of the Queen's Privy Council for Canada, including, without restricting the generality of the foregoing, (a) memoranda the purpose of which is to present proposals or recommendations to Council; (b) discussion papers the purpose of which is to present background explanations, analyses of problems or policy options to Council for consideration by Council in making decisions; (c) agenda of Council or records recording deliberations or decisions of Council; (d) records used for or reflecting communications or discussions between ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy; (e) records the purpose of which is to brief ministers of the Crown in relation to matters that are before, or are proposed to be brought before, Council or that are the subject of communications or discussions referred to in paragraph (d); (f) draft legislation; and (g) records that contain information about the contents of any record within a class of records referred to in paragraphs (a) to (f).

Definition of "Council"

(2) For the purposes of subsection (1), "Council" means the Queen's Privy Council for Canada, committees of the Queen's Privy Council for Canada, Cabinet and committees of Cabinet.

Exception

(3) Subsection (1) does not apply with respect to

- (a) confidences of the Queen's Privy Council for Canada that have been in existence for more than twenty years; or
- (b) discussion papers described in paragraph (1)(b)
 - (i) if the decisions to which the discussion papers relate have been made public, or
 - (ii) where the decisions have not been made public, if four years have passed since the decisions were made.

REGULATIONS

Regulations

197. The Governor in Council may make such regulations as the Governor in Council deems necessary for carrying out the purposes and provisions of this Part.

HER MAJESTY

Binding on Her Majesty

198. This Part is binding on Her Majesty in right of Canada.

Obligation de Sa Majesté

198. La présente partie lie Sa Majesté du chef du Canada.

SA MAJESTÉ

197. Le gouverneur en conseil peut, par règlement, prendre les mesures qu'il estime nécessaires à l'application de la présente loi.

Règlements

RÈGLEMENTS

(3) Le paragraphe (1) ne s'applique pas :

a) aux documents confidentiels du Conseil privé de la Reine pour le Canada dont l'existence remonte à plus de vingt ans;

b) aux documents de travail visés à l'alinéa (1)b), dans les cas où les décisions auxquelles ils se rapportent ont été rendues publiques ou, à défaut de publicité, ont été rendues quatre ans auparavant.

Exception

(2) Pour l'application du paragraphe (1), «Conseil» s'entend du Conseil privé de la Reine pour le Canada, du Cabinet et de leurs comités respectifs.

Définition de «Conseil»

c) ordres du jour du Conseil ou procès-verbaux de ses délibérations ou décisions;

d) documents employés en vue ou faisant état de communications ou de discussions entre ministres sur des questions liées à la prise des décisions du gouvernement ou à la formulation de sa politique;

e) documents d'information à l'usage des ministres sur des questions portées ou qu'il est prévu de porter devant le Conseil, ou sur des questions qui font l'objet des communications ou discussions visées à l'alinéa d);

f) avant-projets de loi ou projets de règlement; g) documents contenant des renseignements relatifs à la tenue des documents visés aux alinéas a) à f).

RAPPORTS AU PARLEMENT

Rapports annuels

192. L'enquêteur correctionnel présente au ministre, dans les trois premiers mois de chaque exercice, le rapport des activités de son bureau au cours de l'exercice précédent. Le ministre le fait déposer devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant sa réception.

Questions urgentes

193. L'enquêteur correctionnel peut, à toute époque de l'année, présenter au ministre un rapport spécial sur toute question relevant de ses pouvoirs et fonctions et dont l'urgence ou l'importance sont telles, selon lui, qu'il serait contre-indiqué d'en différer le compte rendu jusqu'à l'époque normale du rapport annuel suivant; le ministre fait déposer le rapport spécial devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant sa réception.

Motifs des auditions publiques

194. Dans le cas où l'enquêteur correctionnel décide de tenir des auditions publiques à l'égard d'une enquête, il indique dans le rapport prévu à l'article 192 qui traite de cette enquête les motifs de sa décision.

Commentaires défavorables

195. Lorsque l'enquêteur correctionnel est d'avis qu'il pourrait exister des motifs suffisants de mentionner dans son rapport prévu aux articles 192 ou 193 tout commentaire ou renseignement qui a ou pourrait avoir un effet défavorable sur toute personne ou tout organisme, il leur donne la possibilité de présenter leurs observations sur ces commentaires et en présente un résumé fidèle dans son rapport.

DOCUMENTS CONFIDENTIELS DU CONSEIL PRIVÉ

Non-application de la présente

196. (1) L'enquêteur correctionnel ne peut exercer les pouvoirs que les articles 172, 173 et 174 lui confèrent à l'égard des documents confidentiels du Conseil privé de la Reine pour le Canada, notamment des :

- a) notes destinées à soumettre des propositions ou recommandations au Conseil;
- b) documents de travail destinés à présenter des problèmes, des analyses ou des options politiques à l'examen du Conseil;

loi aux documents confidentiels

infraction à la présente loi ou pour une infraction à l'article 131 du *Code criminel* (parjure) se rapportant à une déclaration faite en vertu de la présente partie.

Libelle ou diffamation

190. Ne peuvent donner lieu à des poursuites pour diffamation verbale ou écrite :

- a) les paroles prononcées, les renseignements fournis ou les documents ou objets produits de bonne foi au cours d'une enquête menée par l'enquêteur correctionnel ou en son nom dans le cadre de la présente partie;
- b) les rapports ou comptes rendus établis de bonne foi par l'enquêteur correctionnel dans le cadre de la présente partie, ainsi que la relation qui en est faite de bonne foi par la presse écrite ou audio-visuelle.

INFRACTIONS ET PEINES

Infractions

191. Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de deux mille dollars, quiconque :

- a) soit, sans justification ou excuse légitime, entrave l'action de l'enquêteur correctionnel, ou de toute autre personne agissant dans l'exercice des pouvoirs et fonctions de l'enquêteur correctionnel, ou leur résiste dans l'exercice de leurs pouvoirs et fonctions;
- b) soit refuse ou omet volontairement, sans justification ou excuse légitime, de se conformer aux exigences que l'enquêteur correctionnel ou toute autre personne agissant en vertu de la présente loi peuvent valablement formuler;
- c) soit fait volontairement une fausse déclaration à l'enquêteur correctionnel ou à toute autre personne agissant dans l'exercice des pouvoirs et fonctions de l'enquêteur correctionnel, ou les induit ou tente de les induire en erreur.

CADRE LEGISLATIF

Pouvoir de mener des enquêtes

186. (1) Les dispositions de toute loi qui établissent qu'une décision, une recommandation, un acte ou une omission visés par l'enquête sont définitifs, sans appel et ne peuvent être contestés, révisés, cassés ou remis en question ne limitent pas les pouvoirs de l'enquêteur correctionnel.

Cadre législatif

(2) Les dispositions de la présente partie s'ajoutent, sans les limiter ou les affecter, aux dispositions de toute autre loi ou règle de droit qui prévoient :

a) un recours, un droit d'appel ou un droit d'objection pour toute personne;

b) une procédure d'enquête.

PROCÉDURES

Caractère spécial des procédures de l'enquêteur correctionnel

187. Sauf au motif d'une absence de compétence, aucune procédure de l'enquêteur correctionnel, y compris tout rapport ou recommandation, ne peut être contestée, révisée, cassée ou remise en question par un tribunal.

Immunité de l'enquêteur correctionnel

188. L'enquêteur correctionnel et les personnes qui agissent en son nom ou sous son autorité bénéficient de l'immunité en matière civile ou criminelle pour les actes accomplis, les rapports ou comptes rendus établis et les paroles prononcées de bonne foi dans l'exercice effectif, ou censé tel, des pouvoirs et fonctions qui sont conférés à l'enquêteur correctionnel en vertu de la présente loi.

Non-assignation

189. En ce qui concerne les questions venues à leur connaissance dans l'exercice effectif, ou présente comme tel des pouvoirs et fonctions qui leur sont conférés en vertu de la présente partie, l'enquêteur correctionnel et les personnes qui agissent en son nom ou sous son autorité n'ont qualité pour témoigner ou ne peuvent y être contraints que dans les procédures intentées pour

e) de donner lieu à la communication de documents confidentiels du Conseil privé de la Reine pour le Canada visés à l'article 196.

(3) Pour l'application de l'alinéa (2)b), «enquête» s'entend de celle qui :

- a) soit se rapporte à l'application d'une loi fédérale ou provinciale;
- b) soit est autorisée sous le régime d'une loi fédérale ou provinciale.

184. Par dérogation à toute disposition législative ou réglementaire, le responsable de l'établissement de détention où le délinquant est incarcéré est tenu de transmettre immédiatement à son destinataire, sans l'ouvrir, la correspondance entre le délinquant et l'enquêteur correctionnel.

Définition d'«enquête»

Transmission de lettres
cachetées

185. (1) L'enquêteur correctionnel peut, dans les limites qu'il fixe, déléguer ses attributions, sauf :

- a) le pouvoir même de délégation visé par le présent article;
- b) l'obligation ou l'autorisation de faire rapport au ministre sous le régime des articles 192 ou 193.

Délégation par l'enquêteur
correctionnel

(2) Toute délégation en vertu du présent article est révocable à volonté et aucune délégation n'empêche l'exercice par l'enquêteur correctionnel des attributions déléguées.

Caractère révocable de la
délégation

(3) Dans le cas où l'enquêteur correctionnel cesse d'être en fonctions après avoir délégué certaines de ses attributions en vertu du présent article, cette délégation continue d'avoir effet aussi longtemps que le délégué reste en fonctions ou jusqu'à ce qu'un nouvel enquêteur correctionnel la révoque.

Effet continu de la délégation

183. (1) Sous réserve du paragraphe (2), l'enquêteur correctionnel peut communiquer, ou autoriser les personnes agissant en son nom ou sous son autorité à communiquer les renseignements :
a) qui, à son avis, sont nécessaires pour mener une enquête ou motiver les conclusions et les recommandations présentées en vertu de la présente loi;
b) dont la communication est nécessaire dans le cadre des procédures intentées pour infraction à la présente partie ou pour une infraction à l'article 131 (parjure) du *Code criminel* se rapportant à une déclaration faite en vertu de la présente partie.

Exceptions

(2) L'enquêteur correctionnel et les personnes qui agissent en son nom ou sous son autorité ne peuvent communiquer - et prennent toutes les précautions pour éviter que ne soient communiqués - des renseignements dont la communication risquerait vraisemblablement :
a) de donner lieu à la communication de renseignements - datant, lors de leur éventuelle communication, de moins de vingt ans - obtenus ou préparés dans le cadre d'enquêtes menées aux termes de la loi visant, selon le cas :
(i) à détecter, prévenir ou réprimer le crime, (ii) à faire respecter les lois fédérales ou provinciales, s'il s'agit d'enquêtes en cours, (iii) des activités soupçonnées de constituer des menaces envers la sécurité du Canada au sens de la *Loi sur le Service canadien du renseignement de sécurité*.
b) de nuire au bon déroulement de toute enquête menée aux termes de la loi;
c) de nuire au programme de l'établissement de détention ou au programme de mise en liberté pour condition d'une personne qui purge une peine pour une infraction à une loi fédérale ou de causer des dommages corporels à cette personne ou à un tiers; d) de donner lieu à la communication d'avis ou de recommandations d'un ministre ou d'une institution fédérale au sens de la *Loi sur l'accès à l'information*, ou préparés à leur intention;

182. Sous réserve des autres dispositions de la présente partie, l'enquêteur correctionnel et les personnes agissant en son nom ou sous son autorité sont tenus au secret en ce qui concerne les renseignements dont ils prennent connaissance dans l'exercice des attributions que leur confère la présente partie.

Obligation au secret

CONFIDENTIALITE

181. Dans le cas où une enquête est fondée sur une plainte, l'enquêteur correctionnel informe le plaignant des résultats de son enquête, de la manière et au moment qu'il estime indiqués; il ne peut, toutefois, lui fournir que les renseignements dont la communication peut être autorisée à la suite de demandes présentées aux termes de la *Loi sur la protection des renseignements personnels* et de la *Loi sur l'accès à l'information*.

Communication des résultats de l'enquête au plaignant

180. Si aucune action, qui semble à l'enquêteur correctionnel convenable et indiquée, n'est entreprise dans un délai raisonnable après la remise du rapport au commissaire, ou à celui-ci et au président de la Commission nationale des libérations conditionnelles, l'enquêteur correctionnel informe le ministre de ce fait et lui fournit les renseignements donnés à l'origine au commissaire, ou à celui-ci et au président de la Commission.

Avis et rapport au ministre

(3) Le commissaire et le président de la Commission nationale des libérations conditionnelles ne sont pas liés par les conclusions ou les recommandations formulées sous le régime du présent article.

Non-assujettissement aux recommandations

c) la décision ou la recommandation soient annulées ou modifiées;
d) l'acte ou l'omission soient corrigés;
e) la loi, la pratique ou la ligne de conduite sur lesquelles sont fondés la décision, la recommandation, l'acte ou l'omission soient modifiées ou réexaminées.

a) apparemment contraires à la loi ou à une ligne de conduite établie;
 b) déraisonnables, injustes, oppressants, abusivement discriminatoires ou qui résultent de l'application d'une règle de droit, d'une disposition législative, d'une pratique ou d'une ligne de conduite qui est ou peut être déraisonnable, injuste, oppressive ou abusivement discriminatoire;
 c) fondés en tout ou en partie sur une erreur de droit ou de fait.

Opinion sur l'exercice du pouvoir discrétionnaire

(2) L'enquêteur correctionnel ajoute son opinion motivée au rapport qu'il remet au commissaire, ou à celui-ci et au président de la Commission nationale des libérations conditionnelles, lorsque le problème mentionné à l'article 167 provient d'une décision, d'une recommandation, d'un acte ou d'une omission et qu'il estime qu'un pouvoir discrétionnaire a été exercé à cette occasion, selon le cas :

a) à des fins irrégulières;
 b) pour des motifs non pertinents;
 c) compte tenu de considérations non pertinentes;
 d) sans fourniture de motifs.

Recommandations

179. (1) À l'occasion du rapport qu'il remet au commissaire, ou à celui-ci et au président de la Commission nationale des libérations conditionnelles, l'enquêteur correctionnel peut faire les recommandations qu'il estime indiquées.

Recommandations relatives à une décision, une recommandation, etc.

(2) L'enquêteur correctionnel peut, dans les recommandations qu'il formule à l'égard d'une décision, d'une recommandation, d'un acte ou d'une omission visés au paragraphe 167(1), recommander notamment que :

a) la décision, la recommandation, l'acte ou l'omission soient motivés;
 b) la décision, la recommandation, l'acte ou l'omission soient référés à l'autorité compétente pour réexaminer;

CONCLUSIONS, RAPPORTS ET RECOMMANDATIONS

Décision de ne pas enquêter	175. Dans le cas où l'enquêteur correctionnel décide de ne pas mener une enquête à l'égard d'une plainte ou d'une demande du ministre ou de terminer l'enquête avant son achèvement, il informe le plaignant ou le ministre, selon le cas, de cette décision et, s'il le juge indiqué, de ses motifs; il ne peut, toutefois, fournir au plaignant que les renseignements dont la communication peut être autorisée à la suite de demandes présentées aux termes de la <i>Loi sur la protection des renseignements personnels</i> et de la <i>Loi sur l'accès à l'information</i> .
Conclusions sur une plainte non fondée	176. Dans le cas où l'enquêteur correctionnel conclut, après avoir fait une enquête à l'égard d'une plainte, que celle-ci n'est pas fondée, il informe le plaignant de sa conclusion et, s'il le juge indiqué, de ses motifs; il ne peut, toutefois, fournir que les renseignements dont la communication peut être autorisée à la suite de demandes présentées aux termes de la <i>Loi sur la protection des renseignements personnels</i> et de la <i>Loi sur l'accès à l'information</i> .
Information sur l'existence d'un problème	177. Dans le cas où, après avoir fait une enquête, l'enquêteur correctionnel détermine qu'un égard d'un ou de plusieurs délinquants, il en fournit un rapport détaillé aux personnes suivantes : a) le commissaire; b) le commissaire et le président de la Commission nationale des libérations conditionnelles lorsque le problème provient de l'exercice d'un pouvoir délégué par celui-ci à une personne sous l'autorité de celui-ci.
Opinion	178. (1) L'enquêteur correctionnel ajoute son opinion motivée au rapport qu'il remet au commissaire, ou à celui-ci et au président de la Commission nationale des libérations conditionnelles, lorsque le problème mentionné à l'article 167 provient d'une décision, d'une recommandation, d'un acte ou d'une omission qu'il estime :

174. Pour l'application de la présente partie, l'enquêteur correctionnel peut, à condition d'observer les règles de sécurité qui y sont applicables, visiter, en tout temps, les locaux qui sont sous l'autorité du commissaire ou qu'il occupe, et y faire les enquêtes ou les inspections qu'il juge indiquées.

Autorisation de pénétrer dans certains locaux

(2) La personne qui est assignée, en vertu du paragraphe (1), peut être représentée par avocat durant l'interrogation.

Représentation par avocat

173. (1) Durant une enquête, l'enquêteur correctionnel peut assigner et interroger sous serment les personnes suivantes :

a) le plaignant, dans le cas où l'enquête est fondée sur une plainte;

b) toute personne qui, de l'avis de l'enquêteur, peut fournir des renseignements relatifs à l'enquête.

Il est alors autorisé à faire prêter serment.

Examen sous serment

(3) L'enquêteur correctionnel peut faire des copies de tout document ou objet produits en conformité avec l'alinéa (1)b).

Pouvoir de faire des copies

(2) Les personnes qui produisent les documents ou les objets demandés en vertu de l'alinéa (1)b) peuvent exiger de l'enquêteur correctionnel qu'il les leur renvoie dans les dix jours suivant la requête qu'elles lui présentent à cette fin, mais rien n'empêche l'enquêteur correctionnel d'en réclamer une nouvelle production en conformité avec l'alinéa (1)b).

Renvoi des documents

a) de lui fournir les renseignements qu'elle peut, selon lui, lui donner au sujet de l'enquête;

b) de produire, sous réserve du paragraphe (2), les documents ou les objets qui, selon lui, sont utiles à l'enquête et qui peuvent être en la possession de cette personne ou sous son contrôle.

Pouvoir d'exiger des documents et des renseignements

172. (1) Dans le cadre d'une enquête, l'enquêteur correctionnel peut demander à toute personne :

conditionnelle, faite par une personne qui agit sous l'autorité du commissaire ou exerce des fonctions en son nom.

168. L'enquêteur correctionnel peut demander à la Cour fédérale de rendre une ordonnance déclaratoire déterminant l'étendue de sa compétence à l'égard d'un sujet d'enquête en particulier.

PROGRAMME D'INFORMATION

169. L'enquêteur correctionnel met en oeuvre un programme d'information des délinquants sur son rôle, les circonstances justifiant l'institution d'une enquête et le fait qu'il est indépendant.

ENQUÊTES

170. (1) L'enquêteur correctionnel peut instituer une enquête :

a) sur plainte émanant d'un délinquant ou présentée en son nom;

b) à la demande du ministre;

c) de sa propre initiative.

(2) L'enquêteur correctionnel a toute compétence pour décider :

a) si une enquête doit être menée à l'égard d'une plainte ou d'une demande en particulier;

b) des moyens d'enquêtes;

c) de mettre fin à une enquête à tout moment.

171. (1) Dans le cadre d'une enquête, l'enquêteur correctionnel a toute compétence pour tenir une audition et prendre les mesures d'enquête qu'il estime indiquées; toutefois, nul n'a le droit d'exiger de comparaitre devant lui.

(2) Les auditions de l'enquêteur correctionnel se tiennent à huis clos, sauf si celui-ci en décide autrement.

Auditions à huis clos

Pouvoir de tenir une audition

Pouvoir

Début

Programme d'information

Demande à la Cour fédérale

ATTRIBUTIONS

Attributions

167. (1) L'enquêteur correctionnel mène des enquêtes sur les problèmes des délinquants liés aux décisions, recommandations, actes ou omissions qui proviennent du commissaire ou d'une personne sous son autorité ou exerçant des fonctions en son nom qui affectent les délinquants individuellement ou en groupe.

Restrictions

(2) Dans l'exercice de ses attributions, l'enquêteur correctionnel n'est pas habilité à enquêter sur :

a) une décision, une recommandation, un acte ou une omission qui provient soit de la Commission nationale des libérations conditionnelles et résulte de l'exercice de la compétence exclusive que lui confère la présente loi soit d'une commission provinciale agissant dans l'exercice de sa compétence exclusive;

b) les problèmes d'un délinquant qui sont liés à son incarcération dans un établissement correctionnel provincial, que l'incarcération découle ou non d'une entente conclue entre le gouvernement fédéral et celui de la province où la prison est située;

c) une décision, une recommandation, un acte ou une omission d'un fonctionnaire provincial qui, au titre d'une entente conclue entre le gouvernement fédéral et celui de la province surveille un délinquant qui bénéficie d'une permission de sortir, de la libération conditionnelle ou d'office ou de la liberté surveillée, si la question a déjà été, est ou doit être étudiée par le protecteur du citoyen de cette province.

Exception

(3) Par dérogation à l'alinéa (2)b), l'enquêteur correctionnel peut, dans toute province qui n'a pas institué une commission des libérations conditionnelles, enquêter sur les problèmes des délinquants incarcérés dans un établissement correctionnel provincial en ce qui touche la préparation de leur dossier en vue d'une libération

164. L'enquêteur correctionnel est chargé de la gestion du bureau de l'enquêteur correctionnel et de tout ce qui s'y rattache.

GESTION

Gestion

165. (1) Le personnel nécessaire à l'exercice des pouvoirs et fonctions que la présente partie confère à l'enquêteur correctionnel est nommé conformément à la *Loi sur l'emploi dans la fonction publique*.

PERSONNEL

Loi applicable au personnel

(2) L'enquêteur correctionnel peut retenir temporairement les services d'experts ou de spécialistes dont la compétence lui est utile dans l'exercice des fonctions que lui confère la présente partie; il peut, avec l'approbation du Conseil du Trésor, fixer la rémunération et les indemnités auxquelles ils ont droit et les leur verser.

Assistance

SERMENT PROFESSIONNEL

166. Avant de prendre leurs fonctions, l'enquêteur correctionnel et les personnes visées à l'article 161 et au paragraphe 165(1) prêtent le serment suivant :

Obligation de prêter serment

«Je , , jure que je remplirai avec fidélité, impartialité et dans toute la mesure de mes moyens les fonctions qui m'incombent en qualité (d'enquêteur correctionnel, d'enquêteur correctionnel intérimaire, d'employé du bureau de l'enquêteur correctionnel). Ainsi Dieu me soit en aide.»

Durée du mandat, révocation ou suspension	160. (1) L'enquêteur correctionnel occupe son poste à titre inamovible pour un mandat maximal de cinq ans, sous réserve de révocation ou de suspension motivées par le gouvernement en conseil.	Renouvellement du mandat	(2) Le mandat de l'enquêteur correctionnel est renouvelable.	Intérim de l'enquêteur correctionnel	161. En cas d'absence ou d'empêchement de l'enquêteur correctionnel ou de vacance de son poste, le gouvernement en conseil peut charger de l'intérim toute personne compétente, avec les pouvoirs et fonctions conférés au titulaire du poste par la présente partie, et fixer la rémunération et les frais auxquels cette personne a droit.	Exclusivité	162. L'enquêteur correctionnel se consacre aux fonctions que lui confère la présente partie, à l'exclusion de toute autre charge rétribuée au service de Sa Majesté du chef du Canada ou d'une province ou de toute autre activité rétribuée.	Traitement et frais	163. (1) L'enquêteur correctionnel reçoit le traitement fixé par le gouvernement en conseil et a droit aux frais de déplacement et de séjour entraînés par l'exercice des fonctions que lui confère la présente partie.	Régime de pensions	(2) Les dispositions de la <i>Loi sur la pension de la fonction publique</i> qui ne traitent pas d'occupation de poste s'appliquent à l'enquêteur correctionnel; toutefois, s'il est choisi en dehors de la fonction publique, au sens du paragraphe 3(1) de cette loi, il peut, par avis écrit adressé au président du Conseil du Trésor dans les soixante jours suivant sa date de nomination, choisir de cotiser au régime de pensions prévu par la <i>Loi sur la pension spéciale du service diplomatique</i> ; dans ce cas, il est assujéti rétroactivement à la date de sa nomination aux dispositions de cette loi qui ne traitent pas d'occupation de poste.	Autres avantages	(3) L'enquêteur correctionnel est assimilé à un agent de l'État pour l'application de la <i>Loi sur l'indemnisation des agents de l'État</i> et des règlements pris en vertu de l'article 9 de la <i>Loi sur l'aéronautique</i> .
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PARTIE III

ENQUÊTEUR CORRECTIONNEL

Définitions

Définitions 157. Les définitions qui suivent s'appliquent à la présente partie.

«commissaire» S'entend au sens de la partie I.

«commission provinciale» S'entend au sens de la partie II.

«délinquant» S'entend au sens de la partie II.

«enquêteur correctionnel» L'enquêteur correctionnel du Canada nommé en vertu de l'article 158.

«libération conditionnelle» S'entend au sens de la partie II.

«ministre» Le solliciteur général du Canada.

«pénitencier» S'entend au sens de la partie I.

Nomination de l'enquêteur 158. Le gouverneur en conseil peut nommer une personne à titre d'enquêteur correctionnel du Canada.

Conditions d'exercice 159. Seul un citoyen canadien, ou un résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration*, résidant habituellement au Canada peut être nommé enquêteur correctionnel ou occuper ce poste.

SANCTIONNÉ LE 18 JUIN 1992

PROJET DE LOI C-36

Loi régissant le système correctionnel, la mise en liberté sous condition et le maintien en
incarcération, et portant création du bureau de l'enquêteur correctionnel

CHAPITRE 20

LOIS DU CANADA (1992)

Troisième session, trente-quatrième législature,
40-41 Elizabeth II, 1991-92

Si personne n'a été blessé, si l'information est jugée suffisante et si le détenu n'a soulevé aucune objection, le directeur peut conclure qu'il n'est pas nécessaire de poursuivre l'enquête. En cas de blessures ou de questions non réglées, une enquête sera instituée au niveau local, régional ou national selon la nature de l'incident. Cette façon de procéder donne au directeur la souplesse nécessaire pour bien gérer l'établissement.

S'il faut prendre des mesures correctives à la suite de l'examen d'incidents où il y a eu recours à la force, c'est au directeur de veiller à ce que ces mesures soient prises.

Une fois les données introduites dans le Système de gestion des détenus, le Service veillera à verser cette information dans le Système d'information des cadres. Cela permettra de suivre et d'analyser les incidents de ce genre à l'échelle de l'établissement et de la région et au niveau national.

Si l'Enquêteur correctionnel prend connaissance de cas où la politique n'est pas respectée, il peut attirer l'attention du directeur sur ces cas.

16. Blessures subies par les détenus

Le 12 janvier 1995, le rapport sur l'examen des procédés d'enquête a été remis et, le 8 mars, un exemplaire a été transmis à l'Enquêteur correctionnel. La plupart des 71 recommandations ont été acceptées telles quelles et des plans d'action ont été élaborés. Certaines recommandations ont déjà été appliquées.

17. Visites dans l'aire d'isolement

Aucun commentaire n'est nécessaire.

11. Prise d'otages - Pénitencier de la Saskatchewan

La rédaction des normes en matière de sécurité préventive a été menée à bien. Pour ce qui est de la distribution aux établissements de disques informatiques sur lesquels sont enregistrées les normes et de l'introduction de ces dernières dans le réseau informatique stratégique du SCC, tout s'est bien passé. Comme toujours, les normes devront être régulièrement examinées et modifiées au besoin. Quant aux autres problèmes relatifs à cet incident qui date de 1991, le Service et l'Enquêteur correctionnel sont depuis longtemps en désaccord.

12. Incapacité mentale

Aucun commentaire n'est nécessaire.

13. Port de l'insigne d'identité

La politique relative au port de l'insigne d'identité figure dans le Guide des règles de tenue vestimentaire du SCC. Les directeurs d'établissement doivent prendre les mesures nécessaires lorsqu'ils se rendent compte qu'elle n'est pas appliquée. Si les analystes du Bureau de l'Enquêteur correctionnel connaissent des cas de ce genre, ils devraient en saisir le directeur compétent.

14. Décisions rendues par les tribunaux disciplinaires

C'est dans la DC 580 que l'on trouve la ligne de conduite en matière de comptes rendus d'audiences disciplinaires. Il incombe aux directeurs d'établissement d'agir lorsqu'ils prennent connaissance de cas de non-conformité. Si les analystes du Bureau de l'Enquêteur correctionnel observent de tels cas, ils devraient en saisir le directeur compétent. Le Service a procédé à un examen du règlement d'application de la LSCMLC, qui comportait l'étude des dispositions régissant les mesures disciplinaires.

Une vérification complète du processus a été effectuée en 1992. Il a été décidé, en décembre 1993, qu'avant de procéder à un nouvel examen de cette fonction, y compris par l'examen des dispositions réglementaires, il fallait attendre que le processus prévu par la LSCMLC soit utilisé et que les nouveaux présidents de l'extérieur soient nommés et aient reçu la formation nécessaire.

15. Recours à la force - enquêtes et suivi

Dans tous les cas où il y a eu recours à la force, un rapport doit être transmis au directeur de l'établissement et l'incident doit être enregistré dans le Système de gestion des détenus, conformément à la DC 605. En ce qui concerne le compte rendu, il faut donner une description complète de l'incident et présenter les observations du personnel affecté aux services de santé et à la supervision, et informer le détenu concerné qu'il peut donner sa version des faits au directeur de l'établissement.

correctionnel. Il ne s'agit pas plus d'un « traitement forcé » que le fait de donner un revenu d'emploi ne représente un « travail forcé ». En fait, il s'agit d'employer tous les moyens à notre disposition pour préparer les détenus à réintégrer sans danger la collectivité, ce qui permet de contribuer davantage à la sécurité de la population. La rémunération constitue donc un élément dissuasif valable pour le refus de travailler et un moyen pour inciter le détenu à participer à un plan correctionnel.

Le Service prévoit de modifier le budget affecté à la rémunération de façon que les détenus incapables de travailler pour des raisons indépendantes de leur volonté reçoivent une allocation quotidienne de 2,65 \$ plutôt que de 1,60 \$. Il appliquera cette mesure sans augmenter le budget global affecté à cette fin.

10. Critères régissant les permissions de sortir avec surveillance pour des raisons humaines

Malgré la nécessité évidente de réagir humainement à un décès dans la famille d'un détenu, les directeurs d'établissement doivent prendre en compte la nécessité d'assurer en permanence la sécurité de la population à des moments où le stress augmente chez les détenus.

Sept cas ont été présentés par l'Enquêteur correctionnel depuis avril 1993 :

- dans trois des cas, l'examen a confirmé le fait que la décision du directeur, avant l'adoption des lignes directrices, était conforme à la DC;
- dans l'un des cas, le Service a accepté l'analyse de l'Enquêteur correctionnel, rappelé la politique au directeur et ordonné une visite au cimetière;
- dans un cas, l'examen a montré que la décision du directeur de l'établissement était conforme aux lignes directrices et à la DC;
- un cas était tout simplement trop ancien pour qu'il vaille la peine d'y revenir;
- dans le dernier cas, l'examen se poursuivait.

À l'exception du cas du détenu dont la demande a conduit à l'élaboration des lignes directrices, l'intervalle entre l'arrivée de la lettre de l'Enquêteur correctionnel et la réponse du Service, c'est-à-dire le temps nécessaire pour l'enquête et la réponse, était de 23 à 61 jours. Nous ne considérons pas cette période comme étant « beaucoup trop étendue » vu que, dans de tels cas, l'administration centrale doit travailler de concert avec l'établissement concerné.

- révisions et formation - février et mars;
- mise en oeuvre - avril 1996.

Ce projet aura pour résultat d'établir un processus plus objectif et plus transparent pour les décisions en matière de placement initial puis de reclassement et de transfèrement. Une plus grande objectivité devrait réduire le nombre de décisions contestées, mais l'on ne peut pas et l'on ne devrait pas supprimer l'exercice du jugement professionnel dans ce domaine.

Vu la proportion des transfèrements refusés, il n'est pas étonnant de constater que les plaintes sont nombreuses. Nous consacrons de 200 000 \$ à 300 000 \$ aux transfèrements, sans compter les frais salariaux pour les accompagnateurs du SCC. La plupart des transfèrements ont lieu à la demande des détenus.

8. Effets personnels

Le SCC a fort à faire pour suivre l'évolution rapide du monde de la technologie et faire face à ses répercussions possibles, qu'elles soient positives ou négatives. Notre propre expérience a clairement montré, comme celle du Federal Bureau of Prisons, que l'utilisation d'ordinateurs par des détenus comporte un risque. À l'heure actuelle, on trouve dans les établissements quelque 500 ordinateurs appartenant à des détenus. Dans chaque région, on compte des incidents où leur accès à des ordinateurs a représenté un élément clé dans une tentative pour commettre un acte criminel ou un acte inopportun. Les risques de ce genre augmenteront si l'on autorise l'usage accru de la technologie par les détenus sans prendre les mesures qu'il faut pour réduire ces risques.

Nous reconnaissons les avantages importants que peut comporter pour les détenus, du point de vue des programmes et du développement, l'acquisition de compétences en informatique. Ces avantages peuvent toutefois être obtenus, comme c'est le cas d'ailleurs, à l'extérieur des cellules : programmes de formation, lieux de travail, centres d'informatique.

Le Service est en train d'élaborer une politique sur l'accès à la technologie informatique afin d'avoir une pratique plus uniforme à l'échelle du pays. Il cherche à concilier la sécurité et la plus grande souplesse possible en ce qui concerne les besoins des détenus. En outre, il faut maintenant tenir compte des conséquences du surpeuplement sur la gestion des ordinateurs et des autres effets personnels.

Le Service ayant décidé que les magnétoscopes à cassette ne seraient pas autorisés comme effets personnels, il a modifié la DC en conséquence.

9. Politique de rémunération des détenus sans emploi

La rémunération des détenus constitue une élément incitatif valable pour les participants aux programmes de travail, entre autres. Le Service croit qu'il est des plus raisonnable d'encourager et d'aider les détenus à réintégrer la collectivité en appliquant un plan

transfèrèments, dortoirs provisoires).

La mise en oeuvre a déjà commencé. Par exemple, au pénitencier de Kingston, où l'on trouve certaines des cellules les plus petites, le nombre de celles qui sont affectées à la double occupation a été réduit. Sa population totale est maintenant de 438 détenus contre plus de 500 il n'y a pas longtemps. Dès cet automne, aucun détenu ne sera placé avec un codétenu dans une cellule de moins de 5 mètres carrés.

Dans l'introduction du présent rapport, l'Enquêteur correctionnel parle, au sujet du surpeuplement, de crise et de situation explosive. Pour le Service, il ne s'agit pas d'une crise, mais du problème le plus important auquel il doit faire face. Dans toute prison de haute sécurité, la situation peut devenir explosive, mais l'examen des incidents majeurs montre que leur nombre n'a pas augmenté du tout au cours des quatre dernières années. Nous reconnaissons que la référence au Vérificateur général a involontairement dépassé les limites de son rapport.

6. Programme de permissions de sortir

Depuis le 12 mai 1995, le Système d'information des cadres contient un module statistique relatif au programme de permissions de sortir.

Le Service considère que ce programme a beaucoup de succès. Le taux de réussite - c'est-à-dire pas de manquement aux conditions - s'est maintenu au-dessus de 98 %. Ce succès est attribuable au soin avec lequel l'évaluation du risque est effectuée. Nous ne décelons aucun problème grave en ce qui concerne les permissions de sortir.

L'Enquêteur correctionnel a posé des questions légitimes, et, pour y donner suite, une évaluation sera effectuée dans le cadre du plan de 1995-1996 par le Secteur de la recherche et du développement correctionnels. Sa réalisation commencera cet automne.

7. Transfèrèments

Les décisions prises dans ce domaine tiennent compte de la sécurité du public et des besoins des détenus.

L'étude de l'Échelle de classement par niveau de sécurité et du processus de reclassement a été approuvée dans le cadre du Plan de la recherche et du développement correctionnels pour l'exercice 1995-1996. En voici les premières phases :

- examen, révision et revalidation de l'Échelle de classement par niveau de sécurité - d'avril à septembre;
- élaboration d'un outil de reclassement plus objectif - de juin à octobre;
- consultation du personnel sur le nouvel outil - de novembre à décembre;
- mise à l'essai de l'outil - janvier et février;

difficile à gérer. Il ne s'agit pas de compter sur une longue période pour l'application de programmes, mais de répondre suffisamment aux besoins en matière de programmes avant d'envisager la mise en liberté, y compris celle de délinquants qui doivent participer à des programmes communautaires de prévention des rechutes. Par ailleurs, le Service reconnaît le caractère souhaitable de la continuité des programmes et la valeur de ceux qui sont appliqués dans la collectivité lorsqu'on peut y gérer le risque. Ainsi, 600 délinquants sexuels peuvent maintenant recevoir un traitement dans la collectivité alors que, il y a cinq ans encore, cela n'était pas possible.

Nous reconnaissons le fait que beaucoup de délinquants se trouvent encore en établissement après la date où ils deviennent admissibles à la libération conditionnelle, mais il n'est ni réaliste ni raisonnable de penser qu'ils devraient être libérés étant donné le risque qu'ils continuent de présenter pour la sécurité de la population. Parmi ceux dont la date d'admissibilité est passée, mentionnons les détenus maintenus en incarcération, ceux à qui une mise en liberté sous condition a été refusée, ceux qui ont été libérés mais qui ont manqué aux conditions ou qui ont commis une autre infraction, les détenus qui, a-t-on jugé, ont besoin de suivre d'autres programmes avant que le risque qu'ils présentent pour la société puisse être géré à l'extérieur du pénitencier et, dans certains cas, ceux pour qui aucun programme ne peut ramener le risque à un niveau acceptable.

Le taux d'octroi de la libération conditionnelle à l'échelle fédérale peut varier au fil des ans en fonction d'un certain nombre de facteurs comme la nature de la population carcérale et les changements d'ordre législatif. Depuis 1982-1983, ce taux est resté relativement constant et il est en moyenne de 34 %.

Le SCC favorise la prise de décisions qui entraînent des mises en liberté en temps opportun de la façon suivante :

- ◆ rationalisation de la gestion des cas;
- ◆ harmonisation des besoins en matière d'information avec la Commission nationale des libérations conditionnelles;
- ◆ lancement récent d'un programme qui permet de suivre chaque mois, au moyen du SGD, un échantillon pris au hasard de cas de détenus dont la date d'admissibilité à la libération conditionnelle est passée et qui n'ont pas eu d'audience.

Tout en s'efforçant de libérer les détenus qui ont bénéficié de programmes et dont le risque est acceptable, le Service prend des mesures pour que sa politique en matière d'installations permette de répondre de façon humaine et efficace au surpeuplement.

Une nouvelle Politique de logement a été rendue publique en février 1995. Toutes ses conséquences deviendront apparentes au cours des prochains mois, en particulier quand seront prises les nombreuses mesures destinées à réduire les contraintes liées à la population carcérale (location d'installations provinciales, agrandissement des installations existantes,

Nous sommes d'accord pour reconnaître la diminution du nombre de libérations conditionnelles. Celle-ci est attribuable en partie au fait que, au cours des neuf dernières années, il y a eu une augmentation du nombre de délinquants envoyés dans les pénitenciers fédéraux pour des crimes de violence. Pour ces types d'infractions, il faut prévoir plus de programmes et plus de demandes de participation d'où les retards quant au moment où un délinquant peut être mis en liberté et être géré sans danger dans la collectivité.

La durée médiane de la peine pour les détenus incarcérés dans les pénitenciers fédéraux, stable depuis plusieurs années, a présenté une certaine tendance à s'accroître ces derniers temps; par exemple, elle est passée de 43,4 mois en 1992-1993 à 46,3 mois en 1993-1994, soit une hausse de 6,7 %.¹

Depuis 1980, le nombre de délinquants qui purgent des peines d'emprisonnement à perpétuité a continué de croître au point où ils sont actuellement plus de 3 000 sous la responsabilité du SCC. Plus de 2 000 d'entre eux sont incarcérés, ce qui représente une demande importante et croissante d'installations et de services. Les détenus qui purgent une peine d'emprisonnement à perpétuité représentent approximativement 15 % de la population carcérale totale, chiffre qui continuera d'augmenter jusqu'à atteindre peut-être quelque 3 000; à ce moment-là, le nombre de détenus libérés correspondra à ceux qui arrivent au pénitencier. Bien sûr, ce chiffre pourrait être encore supérieur si, à la suite de modifications apportées à l'article 745 du Code criminel, de nouvelles restrictions s'appliquaient à la libération conditionnelle comme il est proposé dans un projet de loi d'initiative parlementaire.

Depuis 1989, le SCC a renvoyé à la CNLC le cas d'environ 1 200 délinquants en vue d'un examen de maintien en incarcération. La proportion des décisions de maintien en incarcération a continuellement augmenté depuis 1989, passant de 64 % à 89 % en 1993-1994. Dans plus de 60 % de ces cas, il s'agit de délinquants sexuels. Le nombre de renvois en vue d'un examen continue de s'accroître chaque année. Le taux de maintien en incarcération s'est nettement accru tandis que diminuait proportionnellement le recours à d'autres décisions possibles, comme l'ordonnance d'hébergement.

Le Service correctionnel du Canada ne croit pas, lui, que le problème du surpeuplement dans les établissements pourrait être aisément résolu uniquement par des mesures administratives de sa part. C'est la Loi qui détermine l'admissibilité à une mise en liberté sous condition. Les décisions du Service en ce qui concerne les recommandations de mise en liberté des délinquants et leur retour dans les pénitenciers doivent toujours être fondées sur l'évaluation du risque que chacun d'eux présente et la capacité de gérer ce risque. La sécurité du public passe avant tout.

Des 4 276 détenus sous responsabilité fédérale qui étaient en liberté conditionnelle totale en avril 1995, environ 60 % avaient purgé moins de 40 % de leur peine avant d'être mis en liberté. Il est important de reconnaître que le SCC s'occupe d'une population beaucoup plus

En mars 1995, le Service a décrit à l'intention de l'Enquêteur correctionnel un certain nombre d'initiatives en cours ou qui avaient été mises en oeuvre afin d'améliorer l'échange et l'analyse de renseignements pour la Commission nationale des libérations conditionnelles et de simplifier la gestion des cas. Toutes ces mesures reflètent une approche stratégique multidimensionnelle dans un secteur d'activité complexe. Sur aucun des aspects, on ne peut être complètement satisfait, parce que de nouvelles connaissances permettent toujours d'apporter des améliorations.

Enfin, étant donné la nécessité d'assurer des interventions efficaces et un véritable échange de renseignements avec la CNLC, la police et d'autres intervenants auprès des délinquants, le Service a conçu le Système de gestion des détenus ainsi que les ententes administratives connexes et les normes portant sur les exigences pour toutes les parties en matière d'échange de renseignements et de données figurant dans les dossiers.

Le Système de gestion des détenus est maintenant un bon système, qui s'étend à l'ensemble du Canada et qui est utile aux employés de première ligne dans la gestion de la population carcérale. Chaque jour, 2 500 utilisateurs s'en servent pour traiter 10 000 opérations concernant les délinquants. Le Service reconnaît qu'il y a des retards en ce qui concerne l'élément information de gestion et il partage la déception de l'Enquêteur correctionnel.

5. Double occupation des locaux/surpeuplement

Le Service n'est pas d'accord avec l'Enquêteur correctionnel lorsque ce dernier laisse entendre que la détermination des causes de l'augmentation de la population repose sur des suppositions. Parmi les facteurs qui expliquent cette augmentation, mentionnons le nombre de délinquants incarcérés dans les pénitenciers fédéraux, la nature des infractions commises et les délinquants qui les commettent, la durée des peines imposées et le type d'interventions nécessaires pour agir sur les causes de la criminalité avant la libération des délinquants. Le Service reconnaît la nécessité de comprendre autant que possible les facteurs qui contribuent à la croissance de la population, mais l'expérience montre qu'il est beaucoup plus difficile d'effectuer une analyse approfondie que ne le laisse entendre l'Enquêteur correctionnel. La façon dont l'Enquêteur interprète les données dans ce domaine n'en est qu'une parmi d'autres.

Le Service a connu un accroissement plus important que prévu des admissions dans les établissements fédéraux, bien que, selon des données préliminaires, cela ait peut-être commencé de changer ces derniers mois dans certaines parties du pays. Chaque année, de 1986-1987 à 1993-1994, le nombre d'admissions à la suite de mandats d'incarcération s'est accru, et cette augmentation a été aggravée ces dernières années par une hausse des révolutions. Il est improbable que le nombre de révolutions continue d'augmenter, mais ce sera probablement le cas des admissions à la suite de mandats d'incarcération à cause des changements prévus et mis en oeuvre par voie législative.

Le SCC se sert des acquis nouveaux de la recherche, auxquels il contribue d'ailleurs. La recherche a permis de mieux lier les interventions aux détenus qui ont les plus grands besoins en ce qui concerne le comportement criminel. Elle a également permis d'identifier ceux pour lesquels des programmes ne sont pas nécessaires ou pas susceptibles de produire des changements. Des normes et des lignes directrices claires ont été élaborées pour les interventions en psychologie et celles qui touchent les délinquants sexuels. Elles sont maintenant mises en oeuvre. Les travaux en vue d'améliorer l'application des programmes pour toxicomanes seront terminés en juin et la mise en oeuvre se fera au cours des mois qui suivent. Des recherches portent sur les délinquants violents. Pour les programmes de formation, l'accent a été mis sur l'aide aux délinquants pour qu'ils atteignent les niveaux d'aptitude à l'emploi (FBA). Des programmes pour autochtones et pour femmes sont élaborés et mis à l'essai.

En novembre 1994, après plusieurs années d'un travail intense de développement et d'essai, un Projet d'évaluation initiale des délinquants, complet et détaillé, a été mis en oeuvre dans tous les centres de réception. Plus de 1 400 délinquants ont fait l'objet de ce type d'évaluation, qui permet de bien connaître les risques qu'ils présentent et les besoins auxquels il faut répondre par des programmes. Un profil semblable pour les délinquants incarcérés avant novembre sera produit d'ici au début de l'automne de 1995.

Un nouveau processus d'établissement du plan correctionnel a été adopté à l'automne de 1994. Il aide le personnel à juger à quels programmes un délinquant devrait participer et à quel moment dans l'exécution de la peine. Le SGD ne permet pas encore d'appliquer complètement le processus et de produire toutes les données nécessaires pour le suivi, mais le SCC n'a pas attendu que le système devienne entièrement fonctionnel. Des études longitudinales sont en cours et l'une d'elles, qui porte sur l'emploi, devrait être terminée en 1995. Des études d'efficacité à plus court terme sont en cours ou font partie du Plan de recherche de 1995-1996.

Quels programmes conviennent aux délinquants qui présentent un risque et ont des besoins particuliers?

Quels sont les risques que présentent les délinquants et quels sont leurs besoins?

Quand chaque délinquant devrait-il bénéficier de programmes?

Quelle est l'efficacité des programmes?

niveaux par les délinquants. Une utilisation accrue du système est liée en partie au fait que la LSCMILC donne aux délinquants « libre accès » à la procédure de règlement des griefs à partir de 1992. Par ailleurs, un certain nombre d'utilisateurs fréquents empêchent manifestement d'autres délinquants d'avoir un accès raisonnable au système.

Depuis 1982, le nombre de plaintes au premier palier a graduellement augmenté, passant de 10 000 à 14 500. Plus de 60 % d'entre elles ont été réglées localement et n'ont pas atteint les paliers supérieurs. Le système a été utilisé régulièrement et, dans la plupart des cas, effectivement par environ la moitié de la population.

L'affectation de ressources supplémentaires a permis de réduire l'arrière en matière de griefs au troisième palier d'environ 250 en septembre 1994 à quelque 60 à la fin de novembre 1994. Cette réduction s'est produite malgré le dépôt en 1994-1995 de 1 029 griefs au troisième palier, soit une hausse de 12 % par rapport à 1992-1993 et de 18 % par rapport à 1991-1992, ce qui est toutefois moins que les 1 237 griefs qui ont été reçus en 1993-1994 et qui représentaient la cause première de l'arrière. Le nombre moyen de jours nécessaires pour répondre à un grief au troisième palier est maintenant de 50 à 60, et non plus de 100 à 200 jours comme il y a quelques mois. L'arrière au troisième palier est d'environ 60 griefs.

Le Service consacre actuellement quelque 40 ETP à l'administration du système de règlement des griefs à tous les paliers et aux enquêtes aux deuxième et troisième paliers. Il faut ajouter à cela le temps que passent des détenus et des employés du secteur des opérations à résoudre des problèmes et à enquêter, ni celui que consacrent des gestionnaires à l'examen et au suivi du processus. Au troisième palier, 6 ETP étaient attribués aux Affaires des détenus en 1990-1991 et 1991-1992. Ce chiffre a été porté à 8 pour 1992-1993, 1993-1994 et 1994-1995.

Cette année, 9 ETP ont été approuvés.

4. Préparation des cas et accès aux programmes

Le Service a adopté, pour ses programmes, une approche stratégique, et non au cas par cas comme a cru le constater l'Enquêteur correctionnel. Ce secteur d'activité est beaucoup trop complexe pour qu'on l'aborde tout simplement par une solution unique. Nous avons réalisé un certain nombre de projets connexes en ce qui concerne les questions centrales qui suivent :

Les deux établissements appliquent de plus en plus de programmes répondant aux besoins constatés chez les détenus. Mentionnons la maîtrise de la colère, les compétences psychosociales et l'éducation.

Les détenus qui décident d'appliquer leur plan correctionnel et qui font des progrès peuvent bénéficier de privilèges étendus allant jusqu'à leur retour dans un établissement à sécurité maximale. Dans les deux USD, un certain nombre de détenus refusent de participer à l'évaluation de leurs besoins ou à des programmes, et l'on ne peut donc évaluer si le risque qu'ils présentent a été réduit. Ils continuent donc de représenter un danger pour autrui.

Le taux d'incidents graves dans les établissements à sécurité maximale et moyenne n'a pas augmenté, malgré le surpeuplement. On croit que cela est attribuable en partie au fait que les détenus les plus violents sont transférés vers les unités spéciales de détention.

2. La rémunération des détenus

Pour l'élaboration des politiques, dans les années 90, il faut soigneusement tenir compte de considérations relatives à la loi, à la recherche, aux opérations, au leadership politique et à l'opinion publique. Il ne faut oublier aucun de ces aspects. Le SCC reconnaît que les détenus n'ont pas reçu d'augmentation depuis 1986, mais leur rémunération n'a été ni réduite ni supprimée, comme il est arrivé dans certaines provinces. Le Service a apporté des modifications afin de répartir la rémunération en tenant compte du fait que les détenus suivent ou non un plan correctionnel en vue de leur réinsertion sociale. Il applique cette mesure sans augmenter le budget global affecté à la rémunération.

3. Procédure de règlement des griefs

L'orientation donnée et la volonté exprimée par le Service en ce qui concerne le système de recours pour les détenus sont claires. L'élaboration d'un système révisé fait suite à un examen récent dont la portée dépassait celle des études antérieures et qui était axé sur les questions fondamentales. Ce système devrait permettre de résoudre à l'amiable plus de problèmes. Nous pensons avoir le soutien de l'Enquêteur correctionnel dans ce domaine.

Parmi les mesures prises en vue de l'application d'un système de ce genre, la réalisation de projets pilotes au niveau des établissements a permis de mettre à l'essai le mode de règlement à l'amiable. Pour sa mise en oeuvre, le Service a préparé une trousse de formation à l'intention du personnel, donné des cours de résolution des conflits à un certain nombre de gestionnaires et appliqué la médiation à certains griefs du troisième palier ainsi qu'à d'autres plaintes présentées de vive voix ou par écrit. L'élaboration du Système d'information sur les griefs des détenus, utilisable par le SGD, permettra d'améliorer la production de rapports et de faciliter l'analyse.

Le Service correctionnel du Canada n'accepte pas l'opinion selon laquelle la procédure actuelle enfreint la LSCMLC. Il a mis en place un système complet qui se compare favorablement à d'autres systèmes et qui, tout compte fait, est utilisé efficacement à tous les

- ◆ réalités qui se rapportent à la mise en oeuvre d'importantes améliorations dans nos systèmes d'information;
 - ◆ réalités qui ont trait à la gestion d'un organisme vaste et complexe.
- L'Enquêteur correctionnel accuse le Service de ne pas donner suite d'une manière générale à ses constatations. L'examen des trois derniers rapports annuels montre que le SCC a pris des mesures concernant diverses politiques et divers secteurs administratifs :
- ◆ l'examen des griefs relatifs aux soins médicaux dans les régions;
 - ◆ l'examen des griefs relatifs aux soins médicaux du point de vue de la politique du SCC sur le règlement des plaintes;
 - ◆ la politique du SCC sur l'isolement disciplinaire;
 - ◆ la définition et le début de la mise en oeuvre d'une approche stratégique du règlement des griefs par un processus de règlement à l'amiable;
 - ◆ des lignes directrices claires en ce qui concerne les permissions de sortir sous surveillance pour des raisons humaines;
 - ◆ la politique relative au changement de sexe;
 - ◆ la rémunération de certaines détenues à la Prison des femmes;
 - ◆ l'identification des agents;
 - ◆ la réaffirmation de la politique consistant à ne pas faire de la drogue un élément de négociation dans les prises d'otages.

1. Unités spéciales de détention (USD)

Le Comité de révision des USD a pour règle de faire en sorte que seuls les détenus qui ont besoin d'une surveillance intensive y soient gardés. Dans celui du Québec, leur nombre, qui diminue régulièrement, est passé d'un sommet de 63 en avril 1991 à 45 à l'heure actuelle. Dans la région des Prairies, leur nombre est passé de 74 en février 1995 à 60.

Les droits des détenus placés dans les USD sont scrupuleusement respectés. Les détenus violents ne reviennent pas dans les établissements à sécurité réduite avant d'avoir fait la preuve qu'ils sont moins susceptibles de commettre des actes violents en acceptant un plan correctionnel et en profitant de programmes ou d'interventions qui, juge-t-on, permettent d'agir sur les causes de leur comportement violent.

Observations sur les questions soulevées dans le Rapport annuel 1994-1995 de l'Enquêteur correctionnel

Introduction

Les commentaires défavorables qui figurent dans le présent rapport expriment le point de vue de l'Enquêteur correctionnel du Service Canada, point de vue généralement si différent de celui du Service qu'il est très difficile d'accomplir des progrès réels sur les questions traitées et de se mettre d'accord à ce sujet.

Le Service correctionnel du Canada commet certes des erreurs et il cherche à accomplir des progrès dans de nombreux domaines, mais voici comment il se voit lui-même :

- ◆ il est l'un des systèmes correctionnels les plus avancés au monde du point de vue des installations, des programmes, de la recherche et des ressources;
- ◆ il possède les instruments d'évaluation du risque les plus modernes pour résoudre les problèmes clés de sécurité publique;
- ◆ il met en oeuvre des programmes d'avant-garde que, malgré les réductions budgétaires, il augmente progressivement, dans les pénitenciers et dans la collectivité où ils sont destinés aux délinquants mis en liberté sous condition;

- ◆ il applique des politiques généreuses pour ce qui est de la rémunération des détenus, des effets personnels, des permissions de sortir, des visites familiales privées, du logement dans de petites unités, des soins de santé et de nombreux autres domaines;

- ◆ il a mis en place un nombre important de mécanismes pour empêcher un traitement arbitraire des détenus - plaintes adressées à des députés, Enquêteur correctionnel et son personnel, processus de règlement des griefs complexe et très souvent utilisé, présidents de l'extérieur appelés à juger de l'imposition de mesures disciplinaires, accès facile à l'aide juridique pour la résolution de problèmes devant les tribunaux et possibilité de parler aux médias.

Le Service ne peut accepter le caractère généralement négatif des observations de l'Enquêteur correctionnel. Beaucoup semblent n'avoir tout simplement aucun rapport avec les réalités dont le Service doit tenir compte dans son travail :

- ◆ réalités qui ont trait au financement, aux opinions tranchées et contradictoires que manifeste le public au sujet du traitement des délinquants parmi lesquels les auteurs d'infractions graves accompagnées de violence sont de plus en plus nombreux, réalités

Nous aimerions connaître, quand vous aurez mis la dernière main à votre rapport, les changements éventuellement apportés à des commentaires défavorables pour le SCC ou l'un de ses employés. De tels changements pourraient justifier de nouvelles réponses et la modification de réponses ci-jointes, dont le contenu correspond spécialement à celui du document de travail. Cela serait conforme à l'article 195 de la LSCMLC, qui nous donne la possibilité de présenter des observations sur tout commentaire ou renseignement qui figure dans votre rapport définitif.

Nous vous saurions également gré de nous faire savoir d'avance de quelle façon nos observations seront intégrées dans le rapport. Cet effort pour se conformer à l'article 195 est une chose nouvelle pour nos deux organismes. Je suis porté à suivre, pour me guider, le mode de présentation du Vérificateur général.

J'espère que ces commentaires influenceront sur le ton et le caractère de civilité du rapport définitif.

Veuillez agréer, Monsieur, l'expression de mes sentiments les meilleurs.

John Edwards

Le 18 mai 1995

Monsieur Ron Stewart
Enquêteur correctionnel
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K1P 5H9

Monsieur,

Je vous remercie de nous avoir fourni une copie de votre document de travail sur le rapport annuel de 1994-1995. Nous l'avons examiné en détail et nous joignons à la présente nos commentaires point par point. Dans la mesure du possible, nous avons rédigé ces observations de façon à tenir compte des paramètres des publications du Vérificateur général afin de faciliter leur reproduction in extenso. Vous comprendrez que cela n'a pas été facile puisque votre rapport ne contient à peu près pas de lignes où l'on ne trouve des critiques. Nous avons dû en laisser passer un bon nombre.

La seule réponse qui soit très longue est celle qui traite de la double occupation des cellules, car je crois que votre texte sous-estime la complexité de cette question et nos efforts pour la résoudre.

Pour nous, la plus importante réponse est celle qui figure sous « Introduction ». Elle aidera, je pense, le lecteur à comprendre l'important écart qui sépare nos points de vue respectifs, écart qui, comme je me rends compte de plus en plus, explique à quel point il est difficile pour nos deux organismes de nous entendre sur ce qu'il faut faire au sujet des questions dont vous parlez chaque année.

Pour accorder à ces questions toute l'attention voulue, le Service doit s'occuper des questions particulières exposées dans les rapports annuels et renoncer à l'habitude qu'il a d'aborder les questions d'une manière trop générale, tout en les considérant isolément. J'espère qu'en mettant l'accent sur les problèmes particuliers, il sera plus facile non seulement d'accorder l'attention voulue à ces préoccupations systémiques, mais aussi de répondre sans retard et de façon appropriée aux préoccupations individuelles des détenus.

sous-commissaires de vérifier le registre, comme je le fais, lorsque je me rends dans des établissements, afin de confirmer que c'est bien ainsi que les choses se passent. Cela n'annule pas l'obligation d'une visite quotidienne par un gestionnaire d'unité, conformément à la DC.

Dans un an, je réexaminerai la situation et, si le problème persiste, la DC sera modifiée.

C'est un pas dans la bonne direction. L'objectif de notre Bureau était d'assurer la présence de la haute direction, comme l'exige la Loi, dans l'aire d'isolement. On peut maintenant se demander : cette directive sera-t-elle mise en œuvre et la présence de la haute direction dans l'aire d'isolement aidera-t-elle à réduire les préoccupations liées à l'isolement? À cet égard, je suis encouragé par le fait que le Commissaire a promis de réexaminer la situation après un an.

CONCLUSION

Les Réponses que le Commissaire a données en octobre 1994 et en mars 1995 ne sont pas différentes de celles qu'il a données par le passé. Il a évité d'aborder l'essentiel des questions en jeu, en ne répondant pas, par exemple, aux observations et aux recommandations précises que contenait le Rapport annuel de l'an dernier. Ses réponses témoignent d'une attitude défensive, ne montrent guère d'appréciation pour l'évolution ou l'importance des problèmes et s'inscrivent, dans le meilleur des cas, dans une série de nouvelles promesses d'action, sans dire quoi que ce soit quant aux résultats attendus des mesures proposées ou à la façon dont ces résultats seront mesurés ou analysés.

Le Bureau fait principalement porter son effort sur deux domaines :

- a) les retards et l'indifférence que le Service correctionnel du Canada manifeste dans ses réponses aux préoccupations de nature particulière ou générale qui lui sont soumises par notre Bureau,
- b) le problème du surpeuplement,

- ses conséquences pour le détenu et pour la capacité du SCC de gérer d'une manière raisonnable la population carcérale,
- ses causes, sur lesquelles on peut agir dans une large mesure en assurant, pour ce qui est de la population carcérale, une gestion raisonnable et respectueuse des délais.

L'Instruction provisoire du Service intitulée Rapports sur les blessures des délinquants donne une définition de blessures graves, mais notre Bureau continue de rencontrer des cas où des blessures qui devraient relever de cette définition n'ont pas fait l'objet d'enquêtes aux termes de l'article 19. Le Bureau a envoyé une lettre à ce sujet au Commissaire le 27 mars 1995 (copie ci-jointe).

Selon l'Instruction provisoire, une copie du rapport d'enquête, avec la réponse à des recommandations, sera remise, par l'entremise du sous-commissaire de la région ou du Commissaire, à l'Enquêteur correctionnel. L'immense majorité des rapports rédigés aux termes de l'article 19 que le Bureau reçoit ne sont encore accompagnés d'aucune observation de l'autorité responsable et d'aucune réponse aux recommandations.

En ce qui concerne l'« examen » par le Service de ses procédés d'enquête, que le Bureau a appuyé entièrement dans le Rapport annuel de l'an dernier, certaines mesures ont été prises, mais rien n'est définitif jusqu'à présent :

- le Bureau a été invité en avril de l'année dernière à participer à un groupe de discussion sur la réorganisation du processus d'enquête du Service;
- après une rencontre avec le commissaire adjoint, Examen de la gestion intégrée, on a remis au Bureau une proposition du Comité de direction visant à introduire un processus pour faire le suivi des enquêtes, en septembre de l'année dernière;
- en novembre de l'année dernière, le Bureau a rencontré un consultant qui avait été chargé par le Service de faire un examen du processus d'enquête du Service correctionnel du Canada;
- en mars de cette année, on nous a fourni un exemplaire du rapport du consultant.

Où en est l'examen du processus d'enquête du Service?

17. VISITES DES AIRES D'ISOLEMENT ET DÉLÉGATION

Le Commissaire a donné, le 22 décembre 1994, une instruction sur cette question, dont voici un extrait :

Je compte que le directeur ou le sous-directeur visitera l'aire d'isolement au moins une fois la semaine, sauf s'ils ont de bonnes raisons d'agir autrement. Il faut faire une véritable visite, comportant au moins l'inspection des lieux, l'examen des registres, une rencontre avec le personnel et avec les détenus qui en font la demande. Je demande aux

examen et d'une analyse visant à faire en sorte que de tels incidents soient le plus rares possible. (Combien y a-t-il d'incidents de ce genre au cours d'une année?)

Cette année encore, les Réponses du Commissaire ne contiennent aucune observation sur la responsabilité de la direction dans ce domaine et elles continuent de favoriser une politique d'« enquête officieuse ». Pourquoi les cas de recours à la force ne feraient-ils pas l'objet d'une enquête complète et objective?

BLESSURES SUBIES PAR LES DÉTENUÉS

16.

Les préoccupations associées aux blessures subies par les détenus ont été portées à l'attention du Service en mai 1992. Dans sa Réponse d'octobre 1994, le Commissaire a souligné que la consultation sur l'instruction provisoire devait se terminer en septembre 1994, et que cette dernière serait alors examinée pour approbation, puis publiée sous la forme d'une directive du Commissaire. Il s'agit de la directive du Commissaire sur les blessures subies par les détenus au sujet de laquelle notre Bureau a fait des observations en août 1993, alors qu'il ne s'agissait que d'une version provisoire. On nous avait alors avisés qu'elle serait publiée en décembre 1993. Une instruction provisoire a été publiée par le Service en juillet 1994. Dans sa Réponse de mars 1995, le Commissaire a déclaré que bien qu'il faille apporter quelques modifications à la directive à la lumière des commentaires reçus des régions et du SCSG, le Service était assuré qu'il existe maintenant dans ce domaine une orientation globale. Le Bureau attendra que la version définitive de la directive du Commissaire soit publiée avant de faire d'autres observations.

En ce qui concerne la question connexe du processus d'enquête du Service et des responsabilités de ce dernier en vertu de l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition, j'écrirais, entre autres choses, dans le Rapport annuel de l'an dernier :

« - tous les incidents entraînant une blessure grave, selon la définition qu'en donnerait une personne raisonnable, ne font pas l'objet d'une enquête, comme l'exige l'article 19;

- la qualité des rapports d'enquête que notre Bureau a reçus est trop souvent peu satisfaisante.

On me dit que le Service procédera bientôt à l'examen de ses procédés d'enquête et j'appuie totalement cette initiative. »

J'avais repris cette recommandation parce que la série de modifications présentées par le SCC l'année précédente ne répondait pas aux observations faites par notre Bureau il y a deux ans, soit « que le Service ne menait pas toujours les enquêtes requises par sa politique et que, même lorsqu'une enquête est effectuée, rien n'indique, dans la plupart des cas, que les détenus concernés aient été interrogés ni que les observations et les recommandations formulées à l'issue des enquêtes aient été examinées et mises en application en haut lieu ».

Dans ses Réponses d'octobre 1994 et de mars 1995, le Commissaire déclare :

« Nous ne partageons pas l'avis de l'Enquêteur correctionnel selon qu'une enquête, aux termes de l'article 19 de la LSCMLC, est nécessaire dans chaque cas où se produit un recours à la force. Ces enquêtes sont coûteuses et longues. »

Au cours des deux années où j'ai parlé de ce problème, il n'a jamais été question dans le Rapport annuel du fait que ces incidents devaient faire l'objet d'enquêtes aux termes de l'article 19 de la LSCMLC. En fait, notre Bureau n'a jamais mentionné l'article 19 de la Loi en ce qui concerne les enquêtes sur le recours à la force. C'est pourquoi je ne comprends pas du tout à quoi le Service peut faire allusion ni les raisons sur lesquelles il appuie sa position.

Le Commissaire continue en disant que de plus en plus d'enquêtes sont menées officiellement à la suite de cas de recours à la force. Je n'ai aucune idée de ce qui constitue une « enquête officielle », mais je sais que c'est l'absence d'une structure formelle pour l'examen par le SCC de ce genre d'incident qui a conduit aux observations et aux recommandations initiales du Bureau dans ce domaine. Récemment, nous avons de nouveau écrit au Commissaire pour donner d'autres exemples d'incohérences dans la gestion et le compte rendu de ces incidents par le Service.

Encore une fois, la question est relativement simple et on n'y a pas répondu de façon raisonnable :

- tous les incidents où il y a eu recours à la force devraient faire l'objet d'une enquête complète et objective, qui tienne compte des observations des détenus concernés;

- la direction a la responsabilité d'examiner les comptes rendus et de faire en sorte que des mesures correctives soient prises;

- une base de données devrait être tenue à jour dans les régions et à l'échelon national sur les cas de recours à la force, le genre de force utilisée, les circonstances, le nombre de blessures, etc. en vue d'un

Le Comité de direction du Service a décidé en mai 1993 que, à compter du 1^{er} juillet suivant, tous les employés (en uniforme ou en civil) des établissements seraient tenus de porter l'insigne d'identité. Cette question devrait donc être réglée.

Dans sa Réponse d'octobre 1994, le Commissaire a écrit : « Question résolue en 1992-1993. »

On ne peut pas considérer qu'une question de ce genre soit tout simplement résolue. Il suffit de se rendre dans un certain nombre de pénitenciers fédéraux pour constater que la politique établie n'est pas appliquée uniformément. Je crois encore fermement qu'il est inadmissible que le public ne puisse savoir le nom des fonctionnaires à qui il a affaire, surtout quand il s'agit d'agents de la paix. Je recommande donc de nouveau que le Commissaire prenne les mesures qui s'imposent pour que la politique du Service dans ce domaine soit appliquée par tous.

14. DÉCISIONS RENDUES PAR LES TRIBUNAUX DISCIPLINAIRES

Depuis 1990, la politique du Service exige que soit rédigé un compte rendu de toutes les audiences disciplinaires. En réponse au Rapport annuel de l'an dernier, le Commissaire a informé le Bureau, en octobre 1994, que l'on avait de nouveau rappelé cette exigence aux directeurs d'établissement.

L'an dernier, je recommandais ce qui suit :

Que le Service procède à une vérification de ses lignes de conduite et pratiques actuelles en matière de discipline, y compris en ce qui concerne l'isolement disciplinaire, afin de s'assurer qu'elles sont conformes à la Loi et au Règlement.

Le Commissaire m'a fait savoir, en octobre 1994, qu'un examen du processus disciplinaire et de sa conformité avec le règlement était en train de se faire, et qu'un compte rendu des conclusions serait prêt en octobre. Dans sa Réponse de mars 1995, le Commissaire n'a fait aucun commentaire sur cette question. Si l'examen en question a été effectué, j'aimerais en recevoir un compte rendu. Si l'examen n'a pas été fait, j'aimerais encore plus qu'on me fournisse une explication.

15. RECOURS À LA FORCE - ENQUÊTES ET SUIVI

Dans mon rapport de l'an dernier, j'ai de nouveau recommandé, comme l'année précédente, que tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et que les détenus concernés soient interrogés dans le cadre de cette enquête.

orientation en vue d'y répondre. Dans sa Réponse de mars 1995, le Commissaire a écrit ce qui suit :

« La question de l'incapacité et de ses répercussions a été mentionnée parmi les préoccupations permanentes par l'Enquêteur correctionnel. La raison en est, du moins en partie, que l'on y voit une préoccupation d'ordre général, qui peut englober plusieurs problèmes. À cette question se rapportent la définition légale de l'incapacité, telle qu'elle est définie dans les lois provinciales, et, d'une manière générale, le grand nombre de délinquants qui, s'ils sont capables au sens de la loi, ne sont pas toujours en mesure de faire face aux difficultés de la vie quotidienne.

« Comme la question de l'incapacité mentale et de la tutelle des adultes est du ressort des provinces et qu'elle est régie par des lois provinciales complexes et très diverses, il n'existe pas de façon simple d'assurer une approche cohérente au sein du SCC. Il n'y a pas de façon uniforme d'aborder la santé mentale au Canada, malgré l'existence d'un projet de Loi uniforme sur la santé mentale.

« Parmi les préoccupations soulevées, on peut toutefois penser notamment aux délinquants qui, tout en étant capables au sens de la loi, ne sont pas à même de se débrouiller dans la vie quotidienne. Pour ces délinquants, le SCC applique un plan à long terme, qui relève de sa stratégie en matière de santé mentale. Dans le cadre de son Plan opérationnel intégré, le Service prévoit construire des cellules ou aménager jusqu'à 6 p. 100 de ses cellules pour les délinquants qui souffrent de troubles mentaux. Ces unités ont principalement pour objet d'assurer les soins et l'aide dont il est question dans le rapport de l'Enquêteur correctionnel. »

Il y a récemment eu échange de lettres entre le Bureau et le Service correctionnel afin de préciser les points sur lesquels portera encore la consultation, et nous comptons sur une approche coopérative pour le traitement de cette question difficile, mais importante.

13. PORT DE L'INSIGNE D'IDENTITÉ

Cette question a été portée pour la première fois à l'attention du Service correctionnel en avril 1989.

Dans mon Rapport annuel de l'an dernier, je concluais :

Lignes directrices en matière de sécurité préventive

Cette question portait à l'origine sur le fait que ceux qui étaient responsables sur place de la gestion de l'incident ne disposaient pas de données pertinentes relevant de la sécurité préventive sur l'un des auteurs de la prise d'otages. Depuis, beaucoup d'autres sujets de préoccupation ont été soulevés en ce qui concerne la coordination, la vérification, la communication et la correction des renseignements de sécurité préventive ainsi que le rôle des agents de sécurité préventive. Dans sa Réponse de mars 1995, le Commissaire a fixé au 30 avril 1995 la « date limite » pour la production de normes en matière de sécurité préventive. Nous verrons si ces normes ont rapport à la question posée ici.

Allegation de voies de fait sur l'auteur de la prise d'otages

Dans la réponse qu'il a donnée en mars 1995, le Commissaire déclare que le Service a examiné une vidéo de télévision qui montre le détenu peu après l'incident, une photographie présentée par M. Stewart et des observations faites par le négociateur, et qu'il a conclu que le détenu en question n'avait pas fait l'objet de voies de fait à la suite de la prise d'otages.

On peut s'interroger ici, longtemps après les événements, sur la minutie du travail de la Commission d'enquête du Service, laquelle a conclu que le détenu n'avait « subi aucune blessure », et sur l'objectivité du Service lorsqu'on lui a présenté des informations allant dans le sens contraire.

La photographie dont il est question dans la réponse du Commissaire provenait du dossier gardé sur le détenu à l'établissement, de même que l'information d'ordre médical fournie au Commissaire et qui montrait clairement que le détenu avait subi des blessures probablement attribuables à des voies de fait. Depuis deux ans et demi, plutôt que de traiter directement de cette information, le Service a tourné autour du pot. Pour moi, depuis un certain temps, cela ne sert plus à rien d'en discuter - sur cette question, la Commission d'enquête avait tort et le Service n'a vraiment cherché, dans le meilleur des cas, qu'à gagner du temps.

Globalement, je dois de nouveau dire que notre Bureau n'a jamais eu l'intention d'accuser qui que ce soit ni de déterminer des responsabilités, mais il voulait faire examiner avec minutie et objectivité par le Service les questions soulevées par sa propre Commission d'enquête. Ce qu'il n'a manifestement jamais fait.

INCOMPÉTENCE MENTALE 12.

Pendant l'année qui vient de s'écouler, des progrès considérables ont été accomplis pour ce qui est à la fois des précisions apportées au sujet des préoccupations exprimées sur cette question et de la détermination d'une

Toute cette question et la façon dont le Service l'a traitée en disent plus sur l'objectivité et le caractère minutieux de son processus d'enquête que sur l'incident survenu au pénitencier de la Saskatchewan il y a quatre ans.

Au risque de me répéter et dans l'espoir que l'on accorde une certaine attention à des questions qui continuent d'avoir de l'importance pour les opérations du Service correctionnel du Canada, je présente les observations qui suivent en conservant la présentation utilisée dans la Réponse du Commissaire de mars 1995.

Politique sur les prises d'otages

Ce qui constitue l'élément central de cette question, ce sont la clarté et la connaissance des directives en place à l'époque sur l'utilisation de la drogue comme élément de négociation et le rôle des négociateurs de l'extérieur. S'il existe dans ce domaine une politique claire et généralement bien comprise, le Service pourrait peut-être énoncer cette politique et établir le lien entre celle-ci et ce qui est arrivé au pénitencier de la Saskatchewan.

Examen de la violence dans les établissements

Il s'agissait ici de l'intégration des détenus en isolement protecteur à la population carcérale générale. Au milieu de l'année 1992, en réponse aux préoccupations soulevées par la propre enquête interne du Service, le Commissaire avait décidé de lancer une étude nationale sur l'intégration des détenus en isolement protecteur et sur les répercussions des politiques régissant ce processus. Ainsi que je l'ai indiqué dans mon Rapport annuel de 1992-1993, cet examen national a été abandonné sans préavis ni explication au profit d'une « étude de fond sur la violence chez les détenus ». J'ajoutais, la même année, que cette « étude de fond » était centrée uniquement sur trois établissements dont un seul faisait des efforts pour intégrer les détenus en isolement protecteur. J'ai conclu en disant que les résultats de cette étude, qui ont été communiqués à un très petit nombre de personnes au sein du SCC, ne touchaient que de loin les préoccupations associées au processus d'intégration et ne correspondaient pas vraiment à l'engagement pris par le Service d'établir une base de données précises pour la gestion du processus d'intégration.

Comme un certain nombre de régions adoptent, en réponse au surpeuplement, une politique d'intégration des détenus en isolement protecteur à la population carcérale générale, je pense que le Service ferait bien de revenir à ce qu'il avait commencé à faire dans ce domaine en 1992.

Dans mon Rapport annuel de l'an dernier, je faisais les observations suivantes sur la question :

« N'ayant eu connaissance d'aucun fait nouveau dans cette affaire, je n'en ai pas moins gardé un certain nombre de préoccupations au sujet de ce qui suit :

- a) la clarté et la connaissance des directives du Service sur l'utilisation de la drogue comme élément de négociation et le rôle des négociateurs de l'extérieur;
- b) l'absence d'un examen détaillé des questions liées à l'intégration des détenus en isolement protecteur et à la violence dans les établissements;
- c) la publication retardée des normes et des lignes directrices en matière de sécurité préventive;
- d) le fait que l'enquête du Service ait conclu que l'auteur survivant de la prise d'otages n'avait subi aucune blessure, alors qu'un simple examen de son dossier médical aurait montré le contraire.

D'une manière à la fois plus générale et plus personnelle, je suis préoccupé par la façon dont le Service a réagi au sujet de cette affaire. Le Bureau n'a jamais eu l'intention d'accuser qui que ce soit ni de déterminer des responsabilités. Nous n'étions pas sur place et, je n'en doute pas, les décisions et les mesures prises par ceux qui étaient chargés de la gestion de l'incident ont été prises de bonne foi. Notre intention était d'amener le Service à examiner en détail et objectivement les questions soulevées par sa propre commission d'enquête. Ce qu'il n'a jamais fait. »

Dans sa Réponse d'octobre 1994, le Commissaire déclare :

« À la suite de la réponse du SCC au Rapport annuel de l'Enquêteur correctionnel (1992-1993), datée du 6 janvier 1994, le Commissaire a rencontré ce dernier et a précisé que le SCC estimait que la question était réglée définitivement. »

En mars 1995, le Commissaire a déclaré : « Le Service a informé le Ministre, le 3 octobre 1994, que, pour lui, la question était réglée. Le Service avait fait le même commentaire le 6 janvier 1994. » Le Commissaire a ajouté un bref commentaire sur chacun des quatre sujets de préoccupation énoncés dans mon Rapport annuel de l'an dernier.

Qu'une indemnité quotidienne minimale suffisante soit déterminée et que tous les détenus, sans distinction, reçoivent cette allocation quotidienne de base.

J'ai conclu mon rapport sur cette question en disant : « Je recommande en outre, vu les retards excessifs dans ce domaine, que des mesures soient prises immédiatement. »

Dans ses Réponses d'octobre 1994 et de mars 1995, le Commissaire ne fait aucun commentaire pertinent au sujet de cette recommandation.

Au cours de la dernière année, le Service a abandonné sa politique de rémunération d'un travail pour adopter une politique de rémunération de la participation à un plan correctionnel, y compris pour le traitement suivi. Il n'y a qu'un pas de l'encouragement à la contrainte. A mon avis, on franchit ce pas lorsqu'on verse une allocation insuffisante aux détenus qui ne participent pas à des programmes et on leur impose un traitement forcé. Par conséquent, à des fins d'équité et pour que la rémunération des détenus soit véritablement une mesure d'incitation à la participation aux programmes, je réitère ma recommandation et je demande que des mesures soient prises immédiatement.

10.

CRITÈRES RÉGISSANT LES PERMISSIONS DE SORTIR SOUS SURVEILLANCE POUR DES RAISONS HUMAINES

Dans sa Réponse d'octobre 1994, le Commissaire dit simplement que le problème a été résolu en 1992-1993. Dans sa Réponse de mars 1995, il ne parle pas de cette question.

Dans mon Rapport annuel de l'an dernier, je reconnaissais que le Commissaire avait pris des mesures dans ce domaine en donnant des lignes directrices qui renforçaient la politique du Service sur les permissions de sortir sous surveillance pour des raisons humaines. J'ajoutais que ces lignes directrices étaient claires et correspondaient dans une mesure raisonnable à la politique du Service, mais j'estimais inévitables les décisions non conformes à la politique et aux lignes directrices.

Je disais pour conclure que je saisisais directement le Commissaire des décisions non conformes à la politique. Pendant l'année qui s'est écoulée, un certain nombre de décisions concernant des permissions de sortir avec surveillance pour des raisons humaines ont été soumises au Commissaire pour examen. Malheureusement, les résultats de ces examens étaient généralement très lents à venir et témoignaient d'une attitude défensive et circonspecte.

Au moment de l'examen du Vérificateur général, environ 900 détenus étaient logés dans des établissements d'un niveau de sécurité supérieur à la cote de sécurité qui leur avait été attribuée. Le manque d'information fiable et à jour sur cette situation, à l'administration centrale, constitue, selon le Vérificateur général, « un problème très grave ».

En réponse, le Service a fait savoir qu'il avait demandé à sa Direction de la recherche d'effectuer une étude sur la fiabilité et l'application de l'Échelle de classement par niveau de sécurité, et la question de la cohérence ou de la corrélation entre la procédure d'examen expéditif et le classement de sécurité de chacun des détenus sera examinée.

Dans sa Réponse de mars 1995, au sujet du processus de transfèrement, le Commissaire fait observer que le SGD donne des informations permettant de suivre le processus de transfèrement des détenus, et notamment des informations sur des points comme le type de transfèrement (sollicité ou non sollicité), la date de la demande, le motif, la décision, la date du transfèrement et le résultat des appels interjetés. La question qui se pose alors est la suivante : l'administration centrale dispose-t-elle de cette information, celle-ci est-elle mise en corrélation et analysée, et que révèle-t-elle?

Comme pour la préparation des cas, l'accès aux programmes, les griefs, la double occupation des cellules et les permissions de sortir, le Service doit, pour répondre aux préoccupations liées à ces questions, indiquer clairement et précisément ce qu'il a l'intention de faire, de quelle façon il entend le faire et à qui il incombe d'obtenir des résultats.

8. GESTION DES EFFETS PERSONNELS DES DÉTENUX

Le Service a entrepris de réviser sa politique sur cette question au début de 1990. En mars 1995, le Commissaire a fait savoir que le texte définitif de sa directive et de ses lignes directrices sur cette question lui avait été présenté pour signature. Bien que la politique révisée porte sur bon nombre des préoccupations initiales, il subsiste des difficultés liées aux contradictions en ce qui concerne les effets personnels autorisés, tout particulièrement en matière d'ordinateurs.

Depuis plus de deux ans, le Service examine cette question du point de vue de la sécurité. J'espère qu'une décision finale, assurant une pratique cohérente et raisonnable, sera prise dans un proche avenir.

POLITIQUE DE RÉMUNÉRATION DES DÉTENUX SANS EMPLOI

Dans mon Rapport annuel, l'an dernier, alléguant l'entente qui existait sur le fait qu'une somme de 1,60 \$ par jour représente une allocation insuffisante, j'ai recommandé ce qui suit :

que la deuxième version du SGD permettrait de contrôler efficacement les transfèrements de détenus à l'échelle nationale et, de nouveau en 1993, que les transfèrements étaient contrôlés au niveau des établissements. Trois ans de faux espoirs.

Dans le rapport annuel de l'an dernier, je disais en conclusion que « les enquêtes menées par le Bureau sur les plaintes des détenus relatives aux transfèrements n'ont guère révélé d'indices d'un contrôle efficace de la qualité, et les demandes précises que nous avons adressées aux régions et aux établissements au sujet de leurs mesures de contrôle du processus n'ont permis d'obtenir que des réponses partielles ».

Dans sa Réponse d'octobre 1994, le Commissaire fait savoir que la qualité des données introduites dans le SGD fait problème et que l'on s'attend à pouvoir fournir des renseignements détaillés sur les transfèrements en 1995.

Pendant l'année qui vient de s'écouler, le Service a apporté à la directive du Commissaire n° 540 de nouvelles modifications visant à habiller davantage les établissements à autoriser les transfèrements, processus que, dans des rapports annuels précédents, j'avais jugé négatif sur le plan à la fois de l'efficacité et de l'objectivité. Le Bureau a également remarqué que, du fait du surpeuplement, des transfèrements non sollicités vers des établissements provinciaux sont autorisés aux termes d'accords d'échange de services, les transfèrements inter-régionaux non sollicités à des fins de gestion de la population ont augmenté et un plus grand nombre de détenus sont logés dans des établissements dont le niveau de sécurité ne correspond pas au leur.

Sur ce dernier point, le Vérificateur général a indiqué dans son dernier rapport que le Service devrait :

- réviser dès que possible l'Échelle de classement par niveau de sécurité, en se servant des données les plus récentes, afin d'en assurer la validité continue;
- envisager d'ajouter d'autres facteurs à l'échelle afin d'obtenir une meilleure cohérence entre le système de classement des détenus selon le niveau de sécurité et les dispositions relatives à la procédure d'examen expéditif;
- envisager de faire le reclassement des détenus plus d'une fois l'an et insister davantage pour que le reclassement selon le niveau de sécurité coïncide mieux avec d'autres mesures décisionnelles faisant appel à l'évaluation du risque comme le transfèrement et la libération conditionnelle.

7.

TRANSFÈREMENTS

Dans sa Réponse de mars 1995, le Commissaire mentionne également que « le Secteur de la recherche et du développement correctionnels se propose de faire une évaluation du Programme de permissions de sortir durant l'année 1995-1996... le plan de recherche proposé du Service correctionnel du Canada, qui inclut le projet des permissions de sortir, sera examiné par le Comité de direction à sa prochaine réunion ». Étant donné les antécédents médiocres du Service dans ce domaine, il faudrait que celui-ci définisse clairement ce qu'il entend par « une évaluation » et « un plan de recherche » avant qu'on puisse ajouter foi à ces déclarations.

Dans sa Réponse de mars 1995, le Commissaire prétend qu'un programme d'extraction des données a été préparé, qui fournira des renseignements de base sur le programme de permissions de sortir en vue de leur intégration dans le Système d'information des cadres. Il ajoute que ce programme permettra à chaque usager du Système d'information des cadres de faire une analyse du Programme de permissions de sortir. Qu'entend-on par analyse? La méthode? La coordination? L'objectif?

L'évolution de cette question est très semblable à celle du Programme de permissions de sortir.

Les décisions de transfèrement et le processus décisionnel pertinent représentent encore la catégorie dans laquelle les plaintes reçues par notre Bureau sont les plus nombreuses. L'équipe chargée par le Service en 1989 de faire une vérification interne a recommandé la mise en place aux paliers régional et national d'un mécanisme efficace de contrôle de la qualité qui permette de s'assurer que les procédures et les délais prescrits en matière de transfèrement sont respectés.

Au cours des cinq dernières années, le Bureau a beaucoup parlé des insuffisances du processus de transfèrement et a formulé de nombreuses recommandations à l'appui des résultats de la vérification de façon :

- a) que le système permette de procéder à l'examen objectif des demandes de transfèrement et de rendre des décisions dans des délais raisonnables;
- b) que l'examen des appels porte non seulement sur la décision prise, mais aussi sur l'impartialité du processus décisionnel;
- c) qu'un résumé de l'examen des appels de décisions de transfèrement soit présenté dans un rapport trimestriel.

En 1991, on nous a informés que les régions avaient donné suite aux recommandations du rapport de vérification de 1989. On nous a dit en 1992

son rapport annuel, estimait que la double occupation était une mesure acceptable et rentable pour réduire les effets du surpeuplement. J'ai examiné le rapport annuel du Vérificateur général et je n'ai pas trouvé ce genre d'affirmation. Je me sens toutefois obligé de répéter que la double occupation des cellules qui sont conçues pour accueillir une seule personne est inhumaine.

Je crois qu'il y a actuellement des milliers de détenus dans les établissements fédéraux qui pourraient probablement être mis en liberté sous condition si le Service pouvait leur offrir un accès rapide à des programmes et à la préparation des cas. Ces mesures pourraient éliminer la double occupation des cellules. L'augmentation de la population carcérale exercera des pressions encore plus grandes sur l'accès aux programmes et la préparation des cas, et ces pressions engendreront à leur tour une nouvelle augmentation de la population carcérale.

PROGRAMME DE PERMISSIONS DE SORTIR

Cette question, en particulier la diminution du nombre de permissions de sortir, a été soulevée en 1989. Le Bureau a été avisé par le Service au cours des cinq dernières années que la question était évaluée par divers groupes d'étude, dans divers projets d'évaluation et rapports de vérification. Le Bureau a aussi été informé qu'en réponse au Rapport Pepino de 1992, le Programme de permissions de sortir avait fait l'objet d'un contrôle, d'abord en 1993 au niveau national, puis en 1994 au niveau régional; enfin, alors que rien ne permet de penser que tel était le cas, le Service a déclaré que chaque établissement contrôlait et analysait les données sur les permissions de sortir. Le Bureau a déclaré, en réponse à ces diverses allégations de contrôle et d'analyse, que le Service cherchait à brouiller les pistes au sujet de cette question depuis plusieurs années.

Dans sa Réponse d'octobre 1994, le Commissaire fait savoir que « les données préliminaires liées aux permissions de sortir... ont révélé des lacunes au niveau de l'entrée des données... on s'attend à ce que le programme d'extraction des données (qui permettra de faire une analyse sérieuse) sera mis à la disposition des responsables des niveaux local et régional au début de 1995 ».

Le fait d'admettre que les données ne sont pas fiables et de promettre qu'on pourra faire une analyse sérieuse est loin de suffire à excuser cinq années de renseignements trompeurs et d'engagements non respectés. Le programme de permissions de sortir est - ou peut-être était - un programme important qui contribue directement à la préparation à la mise en liberté sous condition; qu'a-t-on fait au cours des cinq dernières années et à quoi le Service s'engage-t-il exactement dans l'avenir?

Sur la question de la double occupation des cellules dans le secteur d'isolement, la Réponse d'octobre 1994 du Commissaire comprend ce qui suit :

Il faut mentionner, en réponse aux préoccupations de l'Enquêteur correctionnel sur « l'aspect inhumain de la double occupation dans le secteur d'isolement », que la stratégie provisoire indique que les détenus ne devraient pas être placés à deux dans les cellules réservées aux détenus ayant des besoins spéciaux, comme les cellules pour détenus suivant des traitements psychiatriques ou les cellules d'isolement (disciplinaire, préventif ou protecteur). Cependant, durant les périodes de surpeuplement, les régions peuvent choisir d'héberger dans les cellules réservées aux détenus présentant des besoins spéciaux deux détenus ayant ou non des besoins de ce genre. Cette mesure doit être prise en fonction de critères de sélection clairs, pour de courtes périodes et seulement jusqu'à ce que des cellules se libèrent.

Le Service connaît une période de « surpeuplement » depuis six ans et je n'ai pas encore vu de « critères de sélection » appliqués aux détenus qui sont soumis à la double occupation des cellules en secteur d'isolement. « Pour de courtes périodes » - comment le savoir? Le Service s'est engagé de nouveau en avril 1993 (voir la correspondance ci-jointe du commissaire adjoint, Services à la haute direction) à recueillir des données sur la double occupation des cellules, en fonction tant de la durée de la double occupation que de l'emplacement des cellules. Dans sa Réponse de novembre 1994, le Commissaire mentionne que le « mécanisme de contrôle et d'évaluation, mis en place lors de l'application de la politique, permettra de déterminer la durée de la double occupation des cellules et le nombre de détenus hébergés dans ces cellules. Les rapports sur la double occupation seront transmis au Bureau de l'Enquêteur correctionnel dès leur parution ».

Dans sa Réponse de mars 1995, le Commissaire précise que les « établissements fournissent chaque semaine des données sur la double occupation des cellules au bureau national, ce qui permet de contrôler constamment la situation dans chaque établissement et chaque région ». Je n'ai pas encore vu ces rapports ni les résultats du contrôle. Par exemple, combien de temps les détenus qui ont été placés à deux par cellule à l'établissement d'Edmonton, en secteur d'isolement, sont-ils demeurés dans ces cellules?

Dans sa Réponse de mars 1995, le Commissaire affirme que la politique du Service en matière d'installations (qui, au départ, était une stratégie proposée pour gérer le surpeuplement) reflète le fait que le Vérificateur général, dans

plus de 500. À l'autre extrémité de l'échelle, le nombre de détenus mis en liberté conditionnelle a baissé de plus de 700. L'augmentation des révocations et la diminution des libérations conditionnelles expliquent à elles seules l'augmentation annuelle de la population carcérale.

J'ai formulé ces commentaires uniquement comme observation. Les données dont dispose le Service ou, du moins, celles qui sont fournies à notre Bureau, sur les indicateurs de performance pertinents à l'objectif général n° 1, se prêtent difficilement à une analyse valable. Cette situation continue d'exister malgré que le Service reconnaît depuis 1990 qu'il y a un problème important dans ce domaine. On ne pourra faire une analyse complète des répercussions des processus de mise en liberté et de surveillance sur la croissance de la population avant d'avoir des données fiables sur le nombre de mises en liberté et sur le moment de ces mises en liberté.

Je ne peux trop insister sur l'importance de cette analyse dans la capacité du Service de gérer la population carcérale. Toute stratégie sur la gestion du surpeuplement doit comprendre une explication claire des causes du problème et une orientation précise sur la façon de le régler ».

Le plan d'action du Groupe de discussion du Commissaire sur la politique en matière d'installations, établi en janvier 1994 et recommandant de procéder à une étude permettant de répondre à la question « Pourquoi les taux d'incarcération augmentent-ils? », n'a pas été exécuté. Comme il est mentionné dans le Rapport annuel de l'année dernière, les points qui devaient être examinés étaient les suivants : « admissions, libérations, taux de renonciation, taux de concordance de la Commission nationale des libérations conditionnelles, formalités administratives en retard, besoins en matière de placements à l'extérieur, caractère opportun des programmes de mise en liberté et pertinence de l'infrastructure communautaire ».

Cette mesure, tout comme la décision du Comité de direction du Service en mai 1993 de constituer un groupe de travail chargé d'examiner les options permettant à court et à long terme de réduire autant que possible la double occupation des cellules, n'a donné aucun résultat tangible. Le nombre de détenus qui partagent une cellule est passé d'environ 2 000 en 1992-1993 à plus de 5 000 en 1994-1995.

Bref, le Service correctionnel du Canada semble recommander actuellement qu'un plus grand nombre de délinquants passent une plus longue période en incarcération et qu'un plus grand nombre de délinquants libérés sous condition soient réincarcérés. Pourquoi?

« Le Service n'est pas la victime infortunée de circonstances indépendantes de sa volonté dans ce processus d'augmentation de la population. Depuis des années, dans mes rapports annuels, je fais des observations sur les répercussions des retards dans la préparation des cas et l'accès aux programmes. J'ai conclu mon rapport annuel de cette année sur la question en déclarant :

Comme je l'ai fait observer dans l'introduction, je ne crois pas que, à long terme, la solution aux retards dans la préparation des cas réside dans l'accroissement des ressources ou du nombre de places dans les établissements. Au fil des ans, le Service a fini par compter, du fait de la multiplicité des programmes dans les établissements, sur la période d'incarcération prolongée qui s'étend de la date d'admissibilité à la libération conditionnelle à celle de la libération d'office, pour l'application de ces programmes. Il semble que le personnel de la gestion des cas hésite à envisager la mise en liberté sous condition tant que les programmes, dont beaucoup pourraient être fournis sous surveillance dans la collectivité, n'ont pas été menés à bien. La croissance actuelle de la population, causée en partie par le fait que des délinquants restent dans les établissements pour terminer ce qu'ils ont commencé, a encore retardé l'accès à ces programmes, ce qui a pour effet d'augmenter la période d'incarcération et de faire croître la population.

Cet enchaînement des effets ne sera probablement pas interrompu tant que le Service n'aura pas accepté le principe voulant que la protection de la société est liée à la réinsertion sociale des détenus en temps opportun et qu'il n'agira pas en ce sens. Le maintien des conditions actuelles dans ce domaine entraînera la croissance de la population et aura de sérieuses conséquences sur le succès du processus actuel de décision au sein du système, sur l'efficacité et l'efficience des programmes existants dans les établissements et sur la capacité du Service d'assurer à la population carcérale un traitement juste et équitable.

Un examen superficiel des données brutes non analysées fournies récemment par le Service sur les admissions et les mises en liberté indique que le surpeuplement est, dans une large mesure, un problème que l'on crée. Pendant que les admissions dans les pénitenciers fédéraux en vertu de mandats d'incarcération ont augmenté de moins de 100 au cours de l'année passée, les admissions résultant d'une révocation de la libération conditionnelle ont augmenté de

Tant que le Service ne sera pas capable de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés dont ils ont besoin, les politiques et les décisions qu'il adoptera dans ce domaine demeureront ponctuelles et incohérentes.

Dans sa Réponse de mars 1995, le Commissaire parle encore d'un certain nombre de projets qui se réaliseront au cours des prochains mois et qui aideront le Service à réaliser l'objectif général n° 1. Ces projets ne sont pas nouveaux, et pourtant on n'indique pas clairement les répercussions qu'ils pourraient avoir sur les activités actuelles du Service ni les indicateurs de rendement qui seront utilisés pour évaluer leur efficacité. Bref, qu'est-ce que le Service attend de ces projets et quels critères utilisera-t-il pour mesurer l'efficacité de ces changements dans la réalisation de l'objectif général n° 1 ?

Pour de plus amples détails sur les questions touchant ce domaine, je vous renvoie à la correspondance datée du 14 novembre 1994 au sujet de la Stratégie proposée pour gérer le surpeuplement, et à la correspondance du 27 mars 1995 concernant les exigences liées à la base de données (ci-jointe). Lorsqu'on sait que ces problèmes se posent depuis longtemps et qu'on connaît l'échec du Service à faire ce qu'il estimait devoir être fait, les Réponses du Commissaire apparaissent encore ponctuelles et incohérentes.

5.

DOUBLE OCCUPATION DES CELLULES (SURPEUPLEMENT)

Je ne conviens pas que la situation actuelle soit inévitable ou indépendante de la volonté du Service correctionnel. Agir ainsi équivaldrait à nier le passé récent et la réalité actuelle.

La Réponse de mars 1995 du Commissaire sur cette question commence par les mots suivants :

Le nombre d'admissions plus élevé que prévu (dans quelle mesure? quels types d'admissions?), ainsi que le nombre de mises en liberté plus faible que prévu (dans quelle mesure? quels types de mises en liberté?), a mené à un manque de places, et le Service doit maintenant gérer cette situation.

Les raisons de cette augmentation de la population carcérale n'ont pas été analysées à fond par le Service. On a fait des suppositions : l'humeur de la population, les pressions pour que les juges soient plus sévères envers les délinquants violents, les peines plus longues, les décisions plus prudentes de la Commission nationale des libérations conditionnelles. On ne peut gérer efficacement un problème si on n'en connaît pas les causes. Pour de plus amples détails sur la position du Bureau, je vous renvoie encore à la correspondance du 14 novembre 1994, où il est dit notamment :

conditionnelle est passée, y compris les motifs associés (p. ex. attente de l'application de la décision, préparation du cas non terminée, renonciation ou report invoqué, etc.);

« Les éléments du SGD permettant de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés ont été mis en oeuvre à l'automne de 1993. Au départ, il y a eu des difficultés avec la conception des programmes informatiques, ce qui a conduit à une utilisation limitée du module du programme;

« Des progrès sont accomplis dans le domaine du suivi des délinquants sexuels et de l'information sur les programmes. En utilisant les données de l'élément information de gestion dans le nouveau système, il est possible de repérer et de suivre le dossier des délinquants sexuels et de surveiller leur situation par rapport au processus décisionnel... Lorsque l'évaluation initiale des détenus sera complètement intégrée au système et que les renseignements sur la participation aux programmes seront entrés dans le SGD, cette information sera facilement accessible;

« Des données préliminaires sur les permissions de sortir ont été extraites du SGD et on a constaté des lacunes au niveau de l'entrée des données. On tente actuellement de corriger la situation;

« L'expérience nous a montré que, dans cette partie du système, il y a des difficultés en ce qui concerne la qualité des données qui sont introduites et sur le plan du fonctionnement de l'application selon les spécifications du projet. »

On attend encore la mise en oeuvre d'un système qui est constamment remise à plus tard pour prendre les mesures correctives qui s'imposent. Les hauts responsables continuent d'invoquer les insuffisances du système comme excuse pour ne pas agir. Cette inaction a sensiblement contribué à l'incapacité du Service de gérer avec efficacité une population carcérale toujours plus nombreuse.

Le surpeuplement des pénitenciers découle autant de l'impuissance du SCC à donner rapidement accès aux programmes et à préparer les cas dans les délais prescrits que de toute autre raison invoquée par le Service. Et bien que le SCC prétende qu'il est toujours déterminé à réaliser l'objectif général n° 1, ces mots sonnent creux après quatre ans de promesses sur des projets destinés à favoriser la réalisation de cet objectif. L'essentiel sur cette question demeure ce qu'il était en 1992 :

PRÉPARATION DES CAS ET ACCÈS AUX PROGRAMMES DE SANTÉ MENTALE

- régler des plaintes des détenus. Le système actuel ne répond pas aux exigences de la LSCMLC pas plus qu'il n'indique que le Service accorde de l'« importance » au règlement des plaintes des délinquants.
- Ni la charge de travail actuelle ni les projets futurs de remaniement du processus ne peuvent raisonnablement constituer des excuses pour expliquer la situation actuelle. Pour gérer efficacement la procédure de règlement des griefs, le Service doit :
 - établir et maintenir un système d'information qui détermine les domaines faisant l'objet de plaintes, les questions importantes soulevées par les plaintes, les mesures correctives prises et la rapidité des réponses;
 - affecter suffisamment de ressources au processus pour que les exigences des lois et des politiques soient respectées.

Depuis plusieurs années, dans ses *Réponses* à cette question, le Commissaire parle de projets d'avenir.

Dans le *Rapport annuel de 1992-1993* du Bureau de l'Enquêteur correctionnel, on peut lire :

Le Service n'a pas encore pris de mesures raisonnables et opportunes à propos des sujets qui préoccupent les détenus depuis longtemps, en partie parce qu'il attend toujours la mise en place du système informatisé de gestion des détenus. On ne peut plus se permettre d'attendre la mise en oeuvre d'un système qui est constamment remise à plus tard pour prendre les mesures correctives qui s'imposent. Les hauts responsables ne peuvent plus se permettre d'invoquer les insuffisances de ce système comme excuse pour ne pas agir.

Les *Commentaires d'octobre 1994* du Commissaire sur cette question concernent directement la situation actuelle.

« Bien qu'on ne puisse encore utiliser le SGD pour suivre, au niveau national, les indicateurs de progrès liés à l'objectif général n° 1, le Service met actuellement au point des rapports informatisés permettant de repérer automatiquement les cas de détenus dont la date d'admissibilité à la libération

« Bien que le Service ait reçu l'autorisation du Conseil du Trésor de financer une augmentation des taux de salaire, il est peu probable dans le climat économique actuel que la population appuie une mesure de ce genre. »

La position défendue par le Service est mal fondée. La raison et l'équité exigent que, même dans le « climat » actuel, l'échelle de rémunération des détenus soit relevée. On ne peut établir les politiques gouvernementales en fonction des perceptions fautives du public.

PROCÉDURE DE RÉGLEMENT DES GRIEFS

3.

La Réponse d'octobre 1994 du Commissaire sur cette question n'est rien de plus qu'une tentative incohérente de défendre un point de vue indéfendable, parsemée de promesses de changements. L'examen du système de règlement des plaintes et des griefs effectué par un Comité directeur du SCC de haut niveau est le troisième examen majeur du processus en cinq ans, comme on le mentionne dans le Rapport annuel de l'année dernière. La souplesse du système, au niveau national (Commissaire), a diminué au cours des cinq dernières années. Ce système a été caractérisé comme fondamentalement dysfonctionnel dans les rapports annuels.

Dans sa Réponse de mars 1995, le Commissaire expose des détails sur la charge de travail de la Division des affaires des détenus, probablement pour expliquer les retards excessifs dans le traitement des griefs au troisième palier. Je ne mets pas en doute - et je ne l'ai jamais fait - l'éthique de travail des personnes qui s'occupent du traitement des griefs. Je continue plutôt de m'interroger sur la détermination du Service, surtout au palier national, à offrir un système souple de règlement des griefs.

Bien que le Commissaire déclare dans sa dernière Réponse que le Service est toujours résolu à éliminer les retards dans le traitement des griefs au troisième palier, les données s'appliquant aux mois de novembre 1994 à janvier 1995 indiquent clairement qu'il y a encore une grande divergence entre la politique, les engagements et la réalité. Le Commissaire ajoute que, depuis septembre 1994, on a entrepris des efforts concertés pour éliminer les retards. Afin de replacer ce commentaire dans le contexte, je vous renvoie à la correspondance ci-jointe du commissaire adjoint, Services à la haute direction, datée du 29 mars 1993.

La question est très simple. En vertu de la Loi sur le système correctionnel et la mise en liberté sous condition (LSC/MLC), le Service doit établir et maintenir « une procédure de règlement juste et expéditif des griefs des délinquants ». L'ancien Commissaire a déclaré, à propos du système, que la rapidité avec laquelle le Service donnera suite aux demandes de redressement sera perçue, à juste titre, comme un indicateur de l'importance qu'il accorde au

RÉMUNÉRATION DES DÉTENUS

Bien que la décision de fusionner les deux USD soit judiciaire, j'estime qu'elle découle moins d'un examen impartial des cotes de sécurité des détenus en fonction des objectifs de la politique que des pressions exercées par l'importance de la population carcérale. Tant que les préoccupations énoncées ci-dessus n'auront pas été prises en considération, les opérations des USD, qu'elles soient regroupées en un seul lieu ou en deux endroits, ne feront guère plus que de maintenir à grands frais les détenus dans leur isolement.

Le Service correctionnel du Canada avait, dernièrement encore, appuyé l'idée d'une augmentation de salaire pour les détenus. (Voir la correspondance ci-jointe du commissaire adjoint, Services à la haute direction, datée du 30 mars 1993.) Il n'y a pas eu de rajustement appréciable de l'échelle de rémunération des détenus depuis plus d'une dizaine d'années. Les problèmes créés par cette situation ont été présentés en détail dans la correspondance envoyée au commissaire du Service correctionnel du Canada en avril 1992.

Dans ma conclusion du rapport annuel de l'année dernière sur cette question, je disais :

Lier l'augmentation, depuis longtemps nécessaire, des taux de rémunération des détenus aux difficultés économiques actuelles et au gel des salaires dans la fonction publique constitue une position difficile à défendre. Je ne peux que recommander le réexamen de cette question en vue de remédier à la dégradation de la situation financière des détenus.

Dans sa Réponse d'octobre 1994, le Commissaire fait remarquer :

« Nous envisageons de mettre en place un nouveau système qui prévoirait un taux de rémunération plus élevé pour les détenus qui sont incapables de travailler pour des raisons indépendantes de leur volonté. Nous réduirions par ailleurs le taux de rémunération des détenus qui acceptent de travailler, mais qui refusent de participer à des programmes liés à leur plan correctionnel. »

Dans sa Réponse de mars 1995, le Commissaire, tout en reconnaissant que les observations du Bureau de l'Enquêteur correctionnel sont équitables et exactes, conclut en disant :

Dans sa Réponse d'octobre 1994, le Commissaire parle d'un Rapport annuel provisoire de 1993-1994 sur les USD, mais il ne dit rien des plans d'action découlant de la vérification et il ne fait aucun commentaire sur la recommandation qui concerne le Comité national de révision.

Dans sa Réponse de mars 1995, le Commissaire dit que la directive du Commissaire n° 551 a été révisée puis promulguée (1995-02-01), que la fonction, la composition et le mandat du Comité national de révision y ont été précisés de façon formelle et que les objectifs du programme sont clairement énoncés. La fonction, la composition et le mandat du Comité national de révision avaient déjà été précisés dans la précédente version de la directive du Commissaire, tout comme les objectifs du programme. Au cours des années, ce n'est pas la politique elle-même qui a causé des difficultés, mais plutôt l'application de la politique et l'engagement du Service à la faire respecter.

Les sujets de préoccupation concernant les USD, tels qu'ils ont été énoncés dans les rapports annuels du Bureau, tournent autour de deux domaines étroitement reliés.

D'abord, la capacité des USD de fournir des programmes d'une manière raisonnable et en temps opportun afin de répondre aux besoins constatés dans la population carcérale. Ensuite, l'objectivité et l'équité avec lesquelles le Comité national de révision exerce ses fonctions à la fois comme organisme de décision dans des cas particuliers et comme organisme responsable du suivi et de l'analyse pour ce qui est du programme des USD. Ni l'une ni l'autre de ces préoccupations n'ont été sérieusement prises en considération dans les changements qui ont été apportés à la politique le 1^{er} février 1995. (Voir la correspondance ci-jointe envoyée au Commissaire et datée du 8 février 1995.)

Pour répondre à ces préoccupations, le Service doit :

- a) déterminer précisément et répertorier les besoins de la population des USD et veiller à ce que les possibilités de participation à des programmes répondent bien aux besoins constatés;
- b) exiger que le Comité national de révision, dans l'exercice de ses responsabilités liées au suivi et à l'analyse, examine tout particulièrement l'efficacité des programmes des USD par rapport aux objectifs définis;
- c) établir un Comité national de révision auquel participe la direction nationale et qui a de façon manifeste le pouvoir et l'objectivité nécessaires pour exercer ses fonctions comme il convient et d'une manière équitable.

RAPPORT ANNUEL
1994-1995

DOCUMENT DE TRAVAIL

RÉPONSES DONNÉES PAR LE COMMISSAIRE EN OCTOBRE 1994
ET EN MARS 1995 AU RAPPORT ANNUEL DE 1993-1994

Les *Réponses* du Commissaire semblent avoir été rédigées en partie sans qu'il ait pris connaissance du Rapport annuel de 1993-1994.

En effet, dans ces documents, on n'essaie nullement de trouver des solutions à la préoccupation primordiale qui est énoncée dans l'*Introduction* du Rapport annuel, à savoir l'inaptitude du Service à gérer avec efficacité une population carcérale toujours plus nombreuse. Les différentes questions qui touchent les détenus sont le plus souvent examinées indépendamment les unes des autres, de manière plutôt superficielle, sans égard aux observations et aux recommandations formulées dans le Rapport annuel. Bref, les *Réponses* sont loin d'être pertinentes; on y fait peu de cas de l'importance des questions, des engagements que le Service n'a pas respectés et de la situation explosive actuelle où l'on retrouve dans les pénitenciers fédéraux quelque 5 000 détenus qui sont placés à deux par cellule.

Nous présentons ci-dessous l'état actuel de chacune des questions.

1. UNITÉS SPÉCIALES DE DÉTENTION

Dans son Rapport annuel de l'année dernière, le Bureau de l'Enquêteur correctionnel s'est moins attardé sur le Rapport annuel du Service sur les USD, qui était qualifié d'insatisfaisant depuis des années, et il a concentré son attention sur le Rapport de vérification interne du Service de janvier 1994 qui présente des observations qui consacrent, dans une large mesure, la légitimité des préoccupations soulevées par le Bureau depuis quelques années.

Je conclus mon rapport de l'an dernier sur cette question en disant que le Bureau attendait que le Service fasse part de ses plans d'action à la suite de la vérification et je recommandais que le Service veille à ce que la composition du Comité national de révision reflète la nécessité de l'objectivité et de l'équité dans les décisions que prend ce comité.

8.

Que le Service correctionnel du Canada ne fasse plus appel à une équipe d'intervention en cas d'urgence composée d'hommes pour maîtriser des détenus de sexe féminin.

Réponse

Des démarches sont déjà en cours pour former une équipe d'agentes de correction au sein de la Prison des femmes, afin de réduire le besoin de faire appel à l'équipe d'intervention en cas d'urgence du Pénitencier de Kingston. Advenant que l'EPIU doive être dépêchée sur les lieux, son rôle se limitera à passer les menottes ou les chaînes aux détenues. Toutes les mesures raisonnables seront prises pour éviter que les membres de l'EPIU soient mis en présence de détenues qui doivent être nues.

Lorsque la Prison des femmes aura été remplacée par des installations régionales, l'an prochain, le Service prévoit faire appel aux corps policiers locaux pour intervenir en cas d'incidents dépassant les capacités du personnel carcéral. Des ententes sont en voie d'élaboration à cet égard.

9.

Que le Service correctionnel du Canada reconsidère sa décision d'embaucher des hommes dans les établissements pour femmes aux postes d'agent de correction et d'agent chargé du cas, dont les titulaires sont directement en contact avec les détenues. Ce réexamen devrait comprendre une vaste consultation auprès des organisations initialement représentées au sein du Groupe d'étude sur les femmes purgeant une peine fédérale et des femmes actuellement en prison.

Réponse

Plusieurs femmes purgeant une peine fédérale passent des années en incarcération. Tenter de les isoler complètement des hommes ne servirait probablement pas leur réinsertion éventuelle dans la collectivité. Les procédures de recrutement ont été entamées pour les nouvelles installations, et la sélection des candidats et candidates est rigoureuse. Jusqu'à présent, peu d'hommes ont posé leur candidature.

10.

Que le Service correctionnel du Canada entame immédiatement des négociations avec les femmes ayant subi l'intervention de l'EPIU et une longue période de détention à l'unité d'isolement par la suite afin de s'entendre avec elles sur un dédommagement raisonnable.

Réponse

Cette question est déjà devant les tribunaux.

4. Que l'autorité instituant les enquêtes fasse rapidement un examen approfondi et impartial des rapports d'enquête afin de s'assurer que les principes impartialité, intégrité et Transparence ne sont pas que des mots vides de sens, et que cette exigence soit clairement énoncée dans la politique du Service.

Réponse

Recommandation acceptée.

5. Que le « rapport », daté du 26 avril 1994, recommandant le recours à l'Équipe pénitentiaire d'intervention en cas d'urgence (EPIU) et les motifs de la décision de la directrice de l'établissement de faire appel à l'EPIU soient annexés au rapport du comité d'enquête qui sera rendu public.

Réponse

Recommandation acceptée.

6. Qu'on rende public l'enregistrement vidéo de l'intervention de l'EPIU à la Prison des femmes le 26 avril 1994, tout en tenant compte des préoccupations des détenues concernées quant à leur intimité.

Réponse

Toute demande à cet égard sera assujettie aux dispositions de la Loi sur la protection des renseignements personnels. L'Enquêteur correctionnel sera prié de donner son avis sur les restrictions qui s'imposent concernant les préoccupations des détenues concernées quant à leur intimité.

7. Que le Commissaire lui-même réexamine les griefs individuels déposés par les détenues à l'égard de l'intervention de l'EPIU et y réponde.

Réponse

Bien qu'on ne puisse s'attendre à ce que le Commissaire réexamine lui-même les quelques milliers de plaintes qui lui sont adressées chaque année, il réexaminera celles qui ont été déposées par les détenues de la Prison des femmes relativement à l'intervention de l'EPIU et répondra lui-même aux plaintes.



Notre référence
Vos références

RÉPONSE DU SERVICE CORRECTIONNEL
AUX RECOMMANDATIONS DE L'ENQUÊTEUR CORRECTIONNEL

1. Que le Service correctionnel du Canada ait pour politique de désigner une personne de la collectivité pour présider les comités chargés d'enquêter sur des incidents majeurs et d'inclure des personnes de la collectivité dans les comités chargés d'enquêter sur des incidents ayant entraîné des lésions corporelles ou la mort.

Réponse

Le Commissaire a institué, l'été dernier, une politique voulant que tous les comités d'enquête nationale comptent un membre de l'extérieur du Service, celui-ci pouvant agir à titre de président selon la nature de l'incident. Cette politique a été mise en application, par exemple, dans le cas de l'enquête tenue récemment sur les évasions de l'Établissement de Bath.

2. Que le Service correctionnel du Canada veille à ce que ses rapports d'enquête contiennent suffisamment de renseignements pour donner une bonne idée de la totalité de l'incident à l'étude ainsi que de l'ensemble des éléments de preuve et témoignages recueillis.

Réponse

Recommandation acceptée.

3. Que les seuls renseignements personnels sur les détenus qui soient contenus dans les rapports des comités d'enquête soient ceux ayant directement trait à l'incident en question.

Réponse

Le risque particulier que présentent certains délinquants constitue habituellement l'un des principaux facteurs considérés pour évaluer le bien-fondé des mesures prises. D'où l'importance de présenter les profils des détenus dans la plupart des rapports d'enquête. Il est entendu qu'on ne devrait pas rendre publics les renseignements personnels qui ne servent pas à définir le contexte dans lequel le risque a été évalué.

10. Que le Service correctionnel du Canada entame immédiatement des négociations avec les femmes ayant subi l'intervention de l'EPILU et une longue période de détention à l'unité d'isolement par la suite afin de s'entendre avec elles sur un dédommagement raisonnable.

3. Que les seuls renseignements personnels sur les détenus qui soient contenus dans les rapports des comités d'enquête soient ceux ayant directement trait à l'incident en question.
4. Que l'autorité instituant les enquêtes fasse rapidement un examen approfondi et impartial des rapports d'enquête afin de s'assurer que les principes Imputabilité, Intégrité et Transparence ne sont pas que des mots vides de sens, et que cette exigence soit clairement énoncée dans la politique du Service.
5. Que le « rapport », daté du 26 avril 1994, recommandant le recours à l'Équipe pénitentiaire d'intervention en cas d'urgence (EPIU) et les motifs de la décision de la directrice de l'établissement de faire appel à l'EPIU soient annexés au rapport du comité d'enquête qui sera rendu public.
6. Qu'on rende public l'enregistrement vidéo de l'intervention de l'EPIU à la Prison des femmes le 26 avril 1994, tout en tenant compte des préoccupations des détenues concernées quant à leur intimité.
7. Que le Commissaire lui-même réexamine les griefs individuels déposés par les détenues à l'égard de l'intervention de l'EPIU et y réponde.
8. Que le Service correctionnel du Canada ne fasse plus appel à une équipe d'intervention en cas d'urgence composée d'hommes pour maîtriser des détenus de sexe féminin.
9. Que le Service correctionnel du Canada reconsidère sa décision d'embaucher des hommes dans les établissements pour femmes aux postes d'agent de correction et d'agent chargé du cas, dont les titulaires sont directement en contact avec les détenues. Ce réexamen devrait comprendre une vaste consultation auprès des organisations initialement représentées au sein du Groupe d'étude sur les femmes purgeant une peine fédérale et des femmes actuellement en prison.

Conditions de détention (art. 68, 69 et 70 de la LSCMLC). Les mesures prises par la direction qui ont fait perdurer la situation avaient beaucoup plus à voir avec le moral bas des membres du personnel et leur sentiment d'impuissance qu'avec la nécessité d'éliminer toute menace à la sécurité des personnes et de l'établissement.

12.

Le Bureau a communiqué les préoccupations susmentionnées en matière d'isolement à la haute direction du Service par la voie de lettres ou de rencontres entre avril 1994 et le 7 novembre 1994, date de la lettre adressée au commissaire du Service correctionnel, qui figure à l'annexe F (la réponse du Commissaire se trouve à l'annexe G).

13.

Aucune des mesures prises par le Service correctionnel du Canada en réponse à ces préoccupations ne pourrait être qualifiée de rapide, d'appropriée ou de suffisante. La consigne générale dans toute cette affaire semblait être la suivante : « **gardons-nous de reconnaître nos torts et disons-en le moins possible, le temps finira bien par arranger les choses** ». On est loin de la devise du Service : Imputabilité, Intégrité, Transparence.

RECOMMANDATIONS

1.

Que le Service correctionnel du Canada ait pour politique de désigner une personne de la collectivité pour présider les comités chargés d'enquêter sur des incidents majeurs et d'inclure des personnes de la collectivité dans les comités chargés d'enquêter sur des incidents ayant comporté l'usage de la force ou ayant entraîné des lésions corporelles ou la mort.

2.

Que le Service correctionnel du Canada veille à ce que ses rapports d'enquête contiennent suffisamment de renseignements pour donner une bonne idée de la totalité de l'incident à l'étude ainsi que de l'ensemble des éléments de preuve et témoignages recueillis.

personne nue. Mercredi soir -- reçois un appel de Mary Cassidy vers 21 h. Je me rends à la prison et j'assiste aux examens des cavités corporelles. Les femmes signent une déclaration dans laquelle elles acceptent d'être fouillées en échange d'une douche. Chacune d'entre elles reçoit une cigarette vers 0 h 30 et se voit remettre une tenue de sécurité et une couverture pour la nuit. Le papier hygiénique n'est distribué que sur demande; elles ne reçoivent aucun article de toilette. L'examen des activités corporelles se passe bien -- les agents n'ont pas besoin d'avoir recours à la force, etc. La plupart des femmes semblent avoir un bon moral.

Toute la question des serviettes hygiéniques est très barbare -- longue discussion au sujet des vieux sous-vêtements sales -- y en avait-il de propres? Images de femmes nues revenant des douches, une serviette entre les jambes -- ce n'était vraiment pas nécessaire. »

11. Dans certains cas, les femmes ont été gardées jusqu'à huit mois dans des cellules d'isolement, dont on avait retiré toutes les commodités dès le départ, sous la surveillance continue d'une caméra; chaque fois qu'elles quittaient leur cellule, on leur mettait des dispositifs de contrainte. Durant de longues périodes, elles ont été privées de literie, de vêtements (notamment de sous-vêtements), d'articles hygiéniques de base, de leurs carnets d'adresses, de matériel pour écrire, de contacts avec leurs familles et de séances d'exercice quotidiennes. L'unité d'isolement est restée plus d'un mois sans être nettoyée après l'incident d'avril, et les cadres supérieurs n'y sont pas allés chaque jour pour y rencontrer les détenues, comme l'exige la loi (par. 36(2) de la LSCMLC); en fait, le Bureau a constaté que, durant un mois complet, aucune visite du gestionnaire d'unité n'a été enregistrée. L'insensibilité dont on a fait preuve à la suite de l'intervention de l'EPIU le 26 avril est difficile à comprendre et inexcusable.

La longue période d'isolement qu'on a fait subir aux femmes et les conditions de vie qui leur ont été imposées avaient un caractère punitif et allaient à l'encontre des dispositions législatives régissant l'isolement préventif (par. 31(2) et art. 37 de la LSCMLC) et des dispositions déterminant les

Le film s'interrompt six fois, de sorte que plus de 50 minutes n'ont pas été

enregistrées.

À mon avis, une force excessive a été déployée durant cette opération, qui a

été sans contredit dégradante et déshumanisante pour les femmes

concernées. La responsabilité de ces actions et l'obligation d'en rendre

compte, tôt ou tard, pèsent principalement sur les autorités qui ont ordonné
l'intervention et celles qui, après coup, ont soutenu que l'opération avait été

une mesure raisonnable et appliquée avec professionnalisme, sans reconnaître
ni apparemment être conscientes qu'elle avait eu des répercussions sur les

femmes touchées.

8.

À mon sens, cette opération a été ordonnée dans le but de remonter le moral
chancelant des membres du personnel et de relever à leurs yeux la

crédibilité, en baisse, de la direction.

9.

Les griefs déposés relativement à l'intervention de l'EPILU ont été traités au

palier du Commissaire, dans le cadre de la procédure de règlement des griefs,
sans qu'il y ait examen de la bande vidéo. Cela veut donc dire que les femmes

n'ont pas eu droit à un examen approfondi et impartial de leurs motifs de

plainte.

Les détails donnés par les plaignantes correspondaient pas mal plus à ce qui

avait été enregistré sur vidéo que les réponses fournies par la haute direction

du Service.

10.

Le journal que tenait l'autre membre du CCG pour consigner ses impressions
personnelles et bien se rappeler des dates des événements mentionne ceci :

« Mercredi, 10 h, je visite les cellules pendant que Bob Batter [président

du CCG] se trouve de l'autre côté de la porte du secteur d'isolement. La

plupart des détenues sont nues et très en colère. Les femmes sont nues
ou revêtues d'une tenue de papier déchirée et portent des fers aux

poignets; il n'y a pas de matelas, d'articles de toilette, d'ustensiles, etc. Il

fait assez froid dans le secteur d'isolement, du moins pour une

tardant à s'exécuter, a été elle aussi dévêtue de force). On la faisait ensuite s'agenouiller, nue, sur le sol, entourée de membres de l'EPIU, pendant qu'on lui mettait du matériel de contrainte.

Ensuite, on l'aidait à se remettre debout, on la faisait sortir à reculons, nue, de sa cellule avant de lui remettre une tenue en papier mince, puis l'EPIU la faisait marcher à reculons jusqu'aux douches.

S'aidant de leurs matraques et de leurs boucliers, les membres de l'EPIU faisaient ensuite placer la femme face au mur, l'un d'entre eux lui tenait la tête contre le mur, probablement pour qu'elle ne puisse voir ce qui se passait, pendant qu'un autre tenait une matraque près de sa tête.

Une fois que la femme était dans le secteur des douches, tout ce qui se trouvait dans sa cellule, le lit y compris, était retiré. On la faisait ensuite revenir à reculons à sa cellule, où on lui demandait de s'agenouiller ou de s'étendre sur le sol; puis les membres de l'EPIU sortaient et verrouillaient la porte, laissant la femme dans la cellule vide, sans couverture ni matelas, portant toujours les dispositifs de contrainte, ce qui va à l'encontre des prescriptions des articles 68, 69 et 70 de la LSCMLC. Dans un cas, la femme a été retournée dans sa cellule, où on l'a fait s'agenouiller, nue, sur le sol durant plus de dix minutes, entourée de membres de l'EPIU, pendant que d'autres membres manipulaient le matériel de contrainte.

On a procédé ainsi pour chacune des huit femmes; l'opération a duré plus de deux heures et demie au total. Durant cette période, les femmes ont manifestement été malmenées physiquement par les membres de l'EPIU, et un certain nombre d'entre elles ont été poussées ou aiguillonnées avec des matraques.

Ces incidents semblent être dus en partie au fait que les femmes ne comprenaient pas bien les instructions émises par les membres de l'EPIU à travers leurs casques de sécurité.

- Avant le début de l'intervention de l'EPILU et au moment de celle-ci, toutes les femmes étaient enfermées dans leur cellule d'isolement.

Le rapport d'enquête, comme je l'ai déjà mentionné, ne contient pas suffisamment d'indications ni de détails pour qu'il y ait des motifs raisonnables de conclure que la décision de faire venir l'EPILU était nécessaire et constituait l'unique solution. Afin d'être davantage à même d'en arriver à une conclusion à ce sujet, le Bureau de l'Enquêteur correctionnel a demandé, dans une lettre datée du 23 novembre 1994, des copies de tous les rapports et observations d'un agent, rapports d'infraction, rapports de sécurité et rapports sur l'usage de la force qui avaient trait à la période allant du 22 au 26 avril 1994. Au moment de la rédaction du présent rapport, le Bureau n'avait toujours rien reçu.

6. Au mieux, on peut dire du rapport du comité d'enquête qu'il est incomplet, qu'il est peu concluant et qu'il sert les intérêts du Service.

7. Dans une lettre adressée au sous-commissaire régional, le 23 juin 1994, le Bureau a demandé l'enregistrement vidéo de l'incident du 26 avril 1994 dans lequel était impliquée l'EPILU. Il a réitéré sa demande, cette fois auprès du Bureau du Commissaire, le 7 novembre puis le 18 novembre. Il a finalement pu prendre connaissance de l'enregistrement le 27 janvier 1995.

L'enregistrement vidéo de l'intervention de l'EPILU montre un déploiement de force massif face à une quasi-absence de résistance. Même en admettant que la décision de faire appel à l'EPILU ait été justifiée au départ, on peut difficilement approuver la poursuite de l'opération alors que les détenues étaient manifestement disposées à coopérer. La tâche de l'EPILU était de faire sortir les femmes une à une de leurs cellules pour en retirer tous les effets et de les y retourner.

Dans le premier cas filmé, la femme est déshabillée de force, comme le film débute au moment où cela se passe, nous ne savons trop si on lui avait d'abord demandé de le faire elle-même. Dans chaque cas par la suite, les membres de l'EPILU pénétraient dans la cellule et ordonnaient à la femme de se dénuder, si ce n'était déjà fait (toutes les femmes ont obéi, sauf une qui,

- Le rapport d'enquête ne fait état d'aucun « comportement perturbateur » entre le vendredi, 23 h 30, et le mardi, 16 h 30, sauf le dimanche après-midi, où une détenue s'est infligée des coupures et une autre a tenté de se suicider.
- Au moment où se sont produits les deux incidents du mardi soir, qui semblent avoir été déterminants dans la décision d'appeler l'EPIU, le membre du personnel était seul dans l'unité d'isolement.
- Juste quelques heures avant qu'il soit recommandé d'avoir recours à l'EPIU, le président du CCC avait passé une heure et demie à converser avec les détenues, sans être accompagné par un membre du personnel de sécurité.
- Le rapport d'enquête fait mention d'un « rapport » rédigé par le surveillant correctionnel qui recommandait « de faire appel à l'EPIU », mais il ne donne aucun détail sur le contenu de ce rapport, ni sur les motifs de cette recommandation.
- Le « rapport » du surveillant correctionnel, daté du 26-04-94, 17 h 50 (voir annexe E), mentionne que les détenues ont été placées dans des cellules de l'aire d'isolement le 22 avril 1994 et n'ont **PAS** subi de fouille au préalable, ce qui est contraire à la politique. Le « rapport » dit également ceci : « Vu le moral fragile des agents dans l'établissement en ce moment, je recommande vivement de faire venir une équipe d'extraction des cellules (EPIU), de faire sortir de leurs cellules toutes les détenues placées en isolement, de procéder à une fouille à nu et de les placer dans des cellules vidées de leur contenu ». Enfin, l'auteur du « rapport » conclut ainsi : « Sinon, je crains que nous devions faire face à une augmentation des demandes de congé pour cause de stress et à une diminution de la confiance à l'égard de la direction ».
- Le rapport de la commission d'enquête dit également que la directrice de l'établissement lit le rapport du surveillant correctionnel et comme « la situation ne s'améliore pas dans l'aire d'isolement, elle prend la décision de demander l'aide de l'EPIU du pénitencier de Kingston ». Cette décision est prise le mardi à 20 h 45 et l'EPIU intervient à 23 h 37; le rapport d'enquête ne dit cependant rien sur le comportement des détenues dans le secteur d'isolement durant cet intervalle de trois heures.

propos et l'efficacité de l'intervention du personnel, c'est simplement ceci : « Le Comité d'enquête a été frappé par la période (quatre jours) pendant laquelle les détenues ont pu adopter un comportement nuisible et lancer de l'urine et des excréments sur le personnel avant que la décision soit prise de faire appel à l'EPIU. De toute évidence, le 26 avril 1994... il fallait intervenir d'une manière ou d'une autre ».

4. Le comité d'enquête n'a pas interrogé les deux membres du Comité consultatif de citoyens (CCC) qui ont été dans le secteur d'isolement de la Prison des femmes durant la période visée par l'enquête. Ultérieurement, ces deux personnes ont, chacune de leur côté, protesté auprès de la directrice de l'établissement contre la façon dont la situation avait été maîtrisée et le maintien en isolement des femmes impliquées. Le président du CCC se trouvait dans l'unité d'isolement quelques heures seulement avant qu'il soit recommandé de recourir à l'EPIU. Durant l'heure et demie qu'il y a passée, il s'est entretenu avec la plupart, pour ne pas dire la totalité, des femmes qui allaient plus tard faire l'objet de l'intervention de l'EPIU. Il était seul dans le secteur à ce moment-là; il n'y avait aucun membre du personnel de sécurité. Il a noté qu'il ne s'était pas senti menacé et que l'atmosphère était certainement assez calme pour que les détenues soient en mesure de lui parler rationnellement, même si leurs propos dénotaient énormément de colère.

L'autre membre du CCC s'est rendu à l'unité d'isolement le 27 avril 1994 durant la matinée, puis à nouveau dans la soirée afin d'être présent comme témoin à l'examen des cavités corporelles des femmes touchées par l'intervention de l'EPIU la veille.

5. En ce qui regarde la décision de demander l'aide de l'EPIU, le rapport du comité d'enquête ne contient pas suffisamment d'indications ni de détails pour qu'il y ait des motifs raisonnables de conclure que, après quatre jours de comportement « perturbateur » dans l'aire d'isolement, la situation en était rendue au point où il n'y avait « d'autre choix que de faire appel à l'EPIU », comme l'a déclaré le Commissaire.

À cet égard, je note ceci :

Les activités menées par le Bureau dans le cadre de son examen entre le 15 avril 1994 et le 3 février 1995 figurent en ordre chronologique à l'annexe A, et une description détaillée du contenu de l'enregistrement vidéo du 26 avril 1994 se trouve à l'annexe B.

OBSERVATIONS

1. Le Service correctionnel du Canada n'a pas veillé à ce que l'enquête sur les incidents en question soit, tant en apparence que dans les faits, menée de façon transparente, indépendante et impartiale. Étant donné la composition du comité d'enquête, il n'est pas étonnant que les délinquantes concernées et la Société Elizabeth Fry aient qualifié son rapport d'entreprise de disculpation.

2. À la section du rapport d'enquête intitulée Profil des détenues, pages 8 à 33 inclusivement, le comité ne fournit à peu près aucun renseignement directement lié à l'incident visé par l'enquête, si ce n'est pour discréditer les détenues impliquées et les présenter sous un jour le plus défavorable possible. Cela fait douter de l'objectivité du rapport et ouvre la porte à la justification des mesures prises par le Service, comme en témoigne la lettre du Commissaire, en date du 13 janvier 1995, qui se lit en partie comme suit :

« Je crois savoir que vous avez reçu copie du rapport d'enquête sur l'incident survenu à la fin d'avril. J'espère que, maintenant, les antécédents des femmes impliquées et le caractère dangereux des actes qu'elles ont commis en avril apparaîtront beaucoup plus clairement. »

3. Le rapport du comité d'enquête ne renferme aucune remarque concluante quant au bien-fondé de la décision de faire appel à l'EPIU. Selon le Commissaire, le comité d'enquête dit dans son rapport que « l'intervention de l'EPIU à l'unité d'isolement le 26 avril était nécessaire pour rétablir l'ordre et pour éviter des blessures au personnel et aux autres détenues », mais, en fait, ce qu'on peut lire dans le rapport, sous le titre L'à-

Le présent rapport est soumis aux termes de l'article 193 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC) :

« 193. L'enquêteur correctionnel peut, à toute époque de l'année, présenter au ministre un rapport spécial sur toute question relevant de ses pouvoirs et fonctions et dont l'urgence ou l'importance sont telles, selon lui, qu'il serait contre-indiqué d'en différer le compte rendu jusqu'à l'époque normale du rapport annuel suivant; le ministre fait déposer le rapport spécial devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant sa réception. »

Je présente ce rapport parce que j'estime que les questions liées aux incidents survenus à la Prison des femmes en avril 1994 sont à ce point urgentes et importantes que je ne peux raisonnablement pas attendre jusqu'au moment du dépôt de mon prochain rapport annuel pour les signaler à votre attention.

Les Observations et les Recommandations formulées ci-après découlent de l'examen approfondi que le Bureau de l'Enquêteur correctionnel a effectué concernant les incidents qui se sont produits à la Prison des femmes entre le 22 et le 26 avril et l'isolement prolongé des femmes impliquées. Cet examen a consisté en ceci : entrevues avec les femmes en cause à la Prison des femmes et au pénitencier de Kingston, d'avril 1994 à février 1995; rencontres et échange de correspondance avec la directrice de la Prison des femmes, le sous-commissaire régional et le Commissaire, de mai 1994 à janvier 1995; rencontres et discussions avec des membres de la direction de la Société Elizabeth Fry, à Ottawa et à Kingston, avec des membres du Comité consultatif de citoyens (Prison des femmes) et les avocats des femmes impliquées dans l'incident d'avril; analyse du rapport (reçu le 14 novembre 1994) du comité chargé par le Service d'enquêter sur l'incident ; examen des réponses du Service aux griefs déposés par les détenues relativement à l'intervention de l'Équipe pénitentiaire d'intervention en cas d'urgence (EPIU) le 26 avril 1994; examen, le 27 janvier 1995, de l'enregistrement vidéo de l'intervention de l'EPIU le 26 avril 1994.

R.L. Stewart
Enquêteur correctionnel
Le 14 février 1995

AU SUJET DE L'ENQUÊTE SUR CERTAINS INCIDENTS
SURVENUS À LA PRISON DES FEMMES EN AVRIL 94
ET DU TRAITEMENT DES DÉTENUES PAR LA SUITE

PRÉSENTÉ EN VERTU DE L'ARTICLE 193 DE LA
LOI SUR LE SYSTÈME CORRECTIONNEL ET
LA MISE EN LIBERTÉ SOUS CONDITION

L'ENQUÊTEUR CORRECTIONNEL

DE

RAPPORT SPÉCIAL

Le 14 février 1995

L'honorable Herb Gray, député
Solliciteur général du Canada
340, avenue Laurier ouest
Ottawa (Ontario)

Monsieur le Ministre,

J'ai l'honneur de vous soumettre, aux termes de l'article 193 de la Loi sur le système
correctionnel et la mise en liberté sous condition, un rapport spécial où je présente mes
observations et mes recommandations au sujet du traitement de détenues et de l'enquête
menée par la suite relativement à certains incidents survenus à la Prison des femmes en
avril 1994 et par la suite.

Étant donné l'importance de cette affaire, j'écris ce rapport maintenant plutôt que d'en
remettre la rédaction au moment de préparer mon prochain rapport annuel.

Veuillez agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
Commissaire du Service correctionnel du Canada

Le 12 décembre 1994

L'honorable Herb Gray
 Solliciteur général du Canada
 Édifice du Parlement
 Rue Wellington
 Ottawa (Ontario)
 KIA 0A6

Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Comme le montre la documentation ci-jointe, les préoccupations soulevées au sujet du cas de _____ ont d'abord été communiquées au commissaire adjoint, Services à la haute direction, le 13 juin 1994. Notre Bureau n'ayant pas reçu de réponse, j'ai écrit au Commissaire, le 22 septembre 1994, pour lui demander de s'en occuper personnellement et de faire prendre des mesures immédiates. Le 19 octobre 1994, j'ai de nouveau écrit au Commissaire, lui rappelant notre correspondance de juin et de septembre et lui demandant de nouveau de s'intéresser personnellement à cette affaire. J'ai de nouveau rappelé l'absence de réponse à ce sujet au Commissaire à l'occasion d'une réunion, le 8 novembre 1994.

À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
 Commissaire du Service correctionnel du Canada

[TRANSDUCTION]

Le 12 décembre 1994

L'honorable Herb Gray
Solliciteur général du Canada
Edifice du Parlement
Rue Wellington
Ottawa (Ontario)
K1A 0A6

Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Comme le montre la documentation ci-jointe, les préoccupations de notre Bureau au sujet du retard excessif dans le traitement du gref de _____ au palier du Commissaire ont d'abord été communiquées au commissaire adjoint, Services à la haute direction, le 20 décembre 1993. Nous avons reçu au Bureau, le 20 juillet 1994, une réponse au gref du détenu, qui a été déposée en août 1993. Après avoir examiné cette réponse, j'ai porté directement cette affaire à l'attention du Commissaire, le 7 septembre 1994, lui demandant de faire un nouvel examen de la façon dont le cas de _____ a été traité. Le 18 octobre 1994, j'ai de nouveau écrit au Commissaire, lui rappelant ma correspondance du 7 septembre au sujet de l'absence de réponse. J'ai de nouveau porté ce fait à l'attention du Commissaire à l'occasion d'une réunion, le 8 novembre 1994.

À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
Commissaire du Service correctionnel du Canada

Le 12 décembre 1994

L'honorable Herb Gray
Solliciteur général du Canada
Edifice du Parlement
Rue Wellington
Ottawa (Ontario)
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Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Comme le montre la documentation ci-jointe, les préoccupations au sujet du rejet de la demande de transfèrement de _____ ont d'abord été communiquées au commissaire adjoint, Services à la haute direction, le 14 mars 1994. Le 15 août suivant, _____ a écrit au Commissaire du Service correctionnel du Canada, en transmettant un double à notre Bureau. J'ai écrit au Commissaire, le 7 septembre 1994, pour lui demander de donner une réponse à notre correspondance du 14 mars 1994 et une copie de sa réponse à _____. Le 18 octobre 1994, j'ai de nouveau écrit au Commissaire, lui rappelant ma correspondance du 7 septembre au sujet de l'absence de réponse. J'ai de nouveau porté ce fait à l'attention du Commissaire à l'occasion d'une réunion, le 8 octobre 1994.

À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
Commissaire du Service correctionnel du Canada

Le 29 novembre 1994

L'honorable Herb Gray
Solliciteur général du Canada
Edifice du Parlement
Rue Wellington
Ottawa (Ontario)
K1A 0A6

Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Les préoccupations soulevées au sujet de _____ ont d'abord été communiquées au sous-commissaire de la région de l'Atlantique, le 7 juin 1994. Après avoir examiné la réponse du sous-commissaire datée du 20 juin 1994, j'ai saisi de cette affaire le Commissaire le 16 août 1994, lui demandant d'y prêter une attention immédiate. J'ai envoyé une lettre de rappel le 18 octobre 1994. J'ai de nouveau rappelé l'absence de réponse à ce sujet au Commissaire à l'occasion d'une réunion, le 8 novembre 1994.

À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
Commissaire du Service correctionnel du Canada

Le 29 novembre 1994

L'honorable Herb Gray
 Solliciteur général du Canada
 Édifice du Parlement
 Rue Wellington
 Ottawa (Ontario)
 K1A 0A6

Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Comme le montre la documentation ci-jointe, les préoccupations relatives au retard excessif dans le traitement du grief au palier du Commissaire ont d'abord été communiquées au commissaire adjoint, Services à la haute direction, le 25 juin 1993. J'ai ensuite présenté moi-même le cas de _____ au Commissaire, le 3 février 1994, dans un groupe de 13 cas qui n'avaient pas été réglés malgré les nombreuses lettres de rappel envoyées par mon Bureau. Après avoir examiné la réponse reçue le 22 juillet 1994 du commissaire adjoint, Services à la haute direction, j'ai de nouveau saisi le Commissaire de cette question le 16 août 1994, car le grief de janvier 1993 de _____ n'avait pas été réglé. Le 18 octobre 1994, j'ai de nouveau écrit au Commissaire, lui rappelant ma correspondance du mois d'août au sujet de l'absence de réponse. J'ai de nouveau porté ce fait à l'attention du Commissaire à l'occasion d'une réunion, le 8 novembre 1994.

À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
 Commissaire du Service correctionnel du Canada

Le 29 novembre 1994

L'honorable Herb Gray
Solliciteur général du Canada
Édifice du Parlement
Rue Wellington
Ottawa (Ontario)
K1A 0A6

Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Comme le montre la documentation ci-jointe, les préoccupations soulevées au sujet du cas de _____ ont d'abord été communiquées au commissaire adjoint, Services à la haute direction, le 24 janvier 1994. J'ai examiné la position du Service à ce sujet telle qu'elle a été exposée dans sa correspondance du 7 juillet 1994, puis j'ai directement porté cette question à l'attention du Commissaire le 16 août 1994. J'ai envoyé une lettre de rappel le 18 octobre 1994. Enfin, j'ai de nouveau rappelé l'absence de réponse à ce sujet au Commissaire à l'occasion d'une réunion, le 8 novembre 1994. À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
Commissaire du Service correctionnel du Canada

Le 12 décembre 1994

L'honorable Herb Gray
 Solliciteur général du Canada
 Édifice du Parlement
 Rue Wellington
 Ottawa (Ontario)
 K1A 0A6

Monsieur le Ministre,

Je vous informe par la présente, aux termes de l'article 180 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC), que le Commissaire du Service correctionnel du Canada, ayant été mis au courant d'un problème relatif au cas de _____, n'a pas, après un délai raisonnable, pris les mesures nécessaires ou appropriées. Vous trouverez ci-joint copie de toute l'information fournie au Commissaire sur cette question.

Comme le montre la documentation ci-jointe, les préoccupations au sujet du rejet de la plainte de _____ ont d'abord été communiquées au commissaire adjoint, Services à la haute direction, le 16 mars 1993. J'ai ensuite présenté moi-même ce cas au Commissaire, le 3 février 1994, parmi un groupe de 13 cas qui n'avaient pas été réglés malgré les nombreuses lettres de rappel envoyées par mon Bureau. Nous avons reçu, le 12 juillet 1994, du commissaire adjoint, Services à la haute direction, une réponse à notre correspondance du 16 mars 1993. Après avoir examiné cette réponse du commissaire adjoint, j'ai de nouveau saisi le Commissaire de cette question, le 7 septembre 1994, car les préoccupations exprimées dans notre correspondance de mars 1993 n'avaient toujours pas eu de réponse. Le 19 octobre 1994, j'ai de nouveau écrit au Commissaire, lui rappelant ma correspondance de septembre au sujet de l'absence de réponse. J'ai de nouveau porté ce fait à l'attention du Commissaire à l'occasion d'une réunion, le 8 novembre 1994.

À ce jour, nous n'avons pas encore reçu de réponse du commissaire du Service correctionnel du Canada. Je vous informe de cette situation, comme je l'ai dit plus haut, aux termes de l'article 180 de la LSCMLC. De plus, je demande de nouveau au Commissaire, en lui transmettant le double de la présente, de prêter son attention aux préoccupations soulevées par le cas de _____.

Je vous prie d'agréer, Monsieur le Ministre, l'expression de mes sentiments les meilleurs.

L'Enquêteur correctionnel,

R.L. Stewart

c.c. M. John Edwards
 Commissaire du Service correctionnel du Canada

CONCLUSION

Les réponses données par le Service pendant l'année ne sont pas différentes de celles qu'il a données par le passé. Il a évité d'aborder l'essentiel des questions en jeu, en ne répondant pas, par exemple, aux observations et aux recommandations précises que contenait le rapport annuel de l'an dernier. Ses réponses témoignent d'une attitude défensive, ne montrent guère d'appréciation pour l'évolution ou l'importance des problèmes et s'inscrivent, dans le meilleur des cas, dans une série de nouvelles promesses d'action, sans dire quoi que ce soit quant aux résultats attendus des mesures proposées ou à la façon dont ces résultats seront mesurés ou analysés.

Le Bureau fait principalement porter son effort sur deux domaines :

a) les retards et l'indifférence que le Service correctionnel du Canada continue de manifester dans ses réponses aux préoccupations de nature particulière ou générale dont est saisi notre Bureau,

b) le problème du surpeuplement;

- ses conséquences pour le détenu et pour la capacité du Service correctionnel du Canada de gérer d'une manière raisonnable et sans danger la population carcérale,

- ses causes sur lesquelles on peut agir dans une large mesure en assurant, pour ce qui est de la population carcérale, une gestion raisonnable et respectueuse des délais.

Pour accorder à ces questions toute l'attention voulue, le Service doit commencer à s'occuper des questions particulières exposées dans les rapports annuels et renoncer à l'habitude qu'il a d'aborder les questions d'une manière trop générale, tout en les considérant isolément. J'espère qu'en mettant l'accent sur les problèmes particuliers, il sera plus facile, non seulement d'accorder l'attention voulue à ces préoccupations systémiques, mais aussi de répondre sans retard et de façon appropriée aux préoccupations individuelles des détenus.

gestionnaires d'unité, ces derniers ne sont pas des cadres supérieurs. Ces gestionnaires sont chargés des opérations quotidiennes d'une unité, et l'aire d'isolement ferait partie de cette unité. L'objet de la Loi est de faire en sorte que les détenus placés en isolement puissent avoir un accès raisonnable sur place à un haut responsable, qui ne prend aucune part aux activités quotidiennes de l'aire d'isolement.

Le nombre de détenus mis en isolement continue d'augmenter, les détenus sont placés à deux et parfois à trois par cellule, les besoins en matière de douches et d'exercice physique ne sont pas toujours satisfaits, les opinions requises de psychologues sur les cas d'isolement de longue durée, ne sont pas systématiquement rédigées et les plaintes adressées à notre Bureau sur les conditions d'isolement et les motifs des placements continuent de s'accroître. La présence quotidienne de cadres supérieurs est nécessaire dans ce secteur.

Le directeur d'établissement a le pouvoir de mettre des détenus en isolement, de les y laisser ou de les faire sortir du secteur, et le pouvoir de faciliter les transfèvements de l'établissement afin de réduire l'isolement de longue durée. Par conséquent, ce serait au directeur ou au sous-directeur de se rendre quotidiennement dans l'aire d'isolement pour y rencontrer les détenus qui s'y trouvent. Déléguer ce pouvoir à un responsable d'un niveau inférieur est contraire à l'objet de l'article 36 de la Loi.

c) Situation actuelle

Le Commissaire a donné, le 22 décembre 1994, une instruction sur cette question, dont voici un extrait :

[Traduction]

Je compte que le directeur ou le sous-directeur visitera l'aire d'isolement au moins une fois la semaine, sauf s'ils ont de bonnes raisons d'agir autrement. Il faut faire une véritable visite, comportant au moins l'inspection des lieux, l'examen des registres, une rencontre avec le personnel et avec les détenus qui en font la demande. Je demande aux sous-commissaires de vérifier le registre, comme je le fais, lorsque je me rends dans des établissements, afin de confirmer que c'est bien ainsi que les choses se passent. Cela n'annule pas l'obligation d'une visite quotidienne par un gestionnaire d'unité, conformément à la DC.

Dans un an, je réexaminerai la situation et, si le problème persiste, la DC sera modifiée.

C'est un pas dans la bonne direction. L'objectif de notre Bureau était d'assurer la présence de la haute direction, comme l'exige la Loi, dans l'aire d'isolement. On peut maintenant se demander : cette directive sera-t-elle mise en oeuvre et la présence de la haute direction dans l'aire d'isolement aidera-t-elle à réduire les préoccupations liées à l'isolement? À cet égard, je suis encouragé par le fait que le Commissaire a promis de réexaminer la situation après un an.

Le 10 décembre 1992, le Commissaire intérimaire répondait enfin à notre lettre du 17 août précédent pour nous faire savoir qu'il s'opposait personnellement à la politique en question et qu'il avait l'intention de soulever le problème à l'occasion de la réunion du Comité de direction prévue pour janvier 1993 en proposant de déléguer cette responsabilité à un palier inférieur. Le Commissaire intérimaire terminait en disant qu'il n'était donc pas disposé, à ce stade, à ordonner aux directeurs des pénitenciers de se conformer à la lettre à la décision prise antérieurement.

Cette réponse était totalement inacceptable, et nous avons fait de nouvelles démarches auprès du Commissaire intérimaire. Dans une lettre datée du 11 février 1993, celui-ci déclarait :

[Traduction]

En vertu d'une décision du Comité de direction, la responsabilité des visites quotidiennes peut être déléguée aux sous-directeurs, aux directeurs adjoints ou aux gestionnaires d'unité. La directive du Commissaire pertinente est modifiée en conséquence et devrait être prête sous sa forme révisée au cours du mois prochain.

Permettez-moi, cependant, de préciser quelle est notre position actuellement. Nous avons pris cette décision lors de la réunion de janvier du Comité de direction. Elle doit prendre effet immédiatement, et les sous-commissaires régionaux devaient en informer leurs directeurs d'établissement.

Depuis novembre 1991, le Service agit en violation de sa politique nationale. J'ai signalé ce manquement au Commissaire en août 1992, et le Service n'a pris aucune mesure corrective acceptable à ce sujet. Depuis le 1^{er} novembre 1992, le Service contrevient aux dispositions du paragraphe 36(2) de la Loi sur le système correctionnel et la mise en liberté sous condition. La «décision du Comité de direction» de janvier 1993 ne constitue pas une délégation au sens où l'entend l'article 6 du Règlement d'application de la Loi. La directive du Commissaire dont il est question dans la lettre du Commissaire intérimaire du 11 février 1993 n'a pas été modifiée. En résumé, le Service entreint en toute connaissance de cause sa propre politique depuis novembre 1991 et la Loi sur le système correctionnel et la mise en liberté sous condition depuis le 1^{er} novembre 1992, et n'a pris jusqu'à maintenant aucune mesure pour remédier à la situation.

En ce qui concerne le niveau de délégation, j'estime que le fait de transmettre la responsabilité des visites à un palier inférieur à celui de sous-directeur est contraire à l'objet de l'article 36 de la Loi, qui est de faire en sorte que les détenus mis en isolement puissent avoir un accès raisonnable à un haut responsable, qui ne prend pas part aux activités courantes ni à la gestion de l'aire d'isolement, pour s'assurer que leurs préoccupations recevront l'attention requise dans les meilleurs délais. Dans cette perspective, je recommande le maintien et la mise en oeuvre de la politique existante.

b) Situation en mars 1994

Selon la Loi sur le système correctionnel et la mise en liberté sous condition et, avant l'entrée en vigueur de celle-ci, la directive du Commissaire, le directeur ou le sous-directeur de l'établissement doit se rendre au moins une fois par jour dans l'aire d'isolement prévenir pour y rencontrer, sur demande, tout détenu qui s'y trouve.

Le Service n'a pas commenté mes observations selon lesquelles il entreint en toute connaissance de cause sa propre politique (depuis novembre 1991) et la Loi (depuis novembre 1992) et il n'a pris avant juin 1993 aucune mesure pour remédier à cette situation.

En juin 1993, le Service a agi, en confiant par délégation la responsabilité des visites quotidiennes aux gestionnaires d'unité. Le Commissaire a déclaré, au sujet de la délégation, que la décision du Comité de direction était de déléguer la responsabilité des visites dans les aires d'isolement à des cadres de niveau supérieur. Selon la Directive, ce niveau ne doit normalement pas être inférieur à celui de gestionnaire d'unité. Avec tout le respect que l'on doit aux

L'Instruction provisoire du Service intitulée Rapports sur les blessures des délinquants, distribuée en juillet 1994, donnait une définition de blessures graves, mais notre Bureau continue de rencontrer des cas où des blessures qui normalement devraient relever de cette définition n'ont pas fait l'objet d'enquêtes aux termes de l'article 19.

Selon cette instruction provisoire, une copie du rapport d'enquête, avec la réponse à des recommandations, sera remise, par l'entremise du sous-commissaire de la région ou du Commissaire, à l'Enquêteur correctionnel. L'immense majorité des rapports rédigés aux termes de l'article 19 que le Bureau continue de recevoir ne sont accompagnés d'aucune réponse aux recommandations de la part de l'autorité responsable.

Pour répondre à ces préoccupations, il faut apporter des précisions à l'Instruction provisoire du Service afin que tous les incidents entraînant la mort ou une blessure grave fassent l'objet d'une enquête suivant les dispositions de l'article 19 de la *Loi sur le système correctionnel et la mise en liberté sous condition* et que les rapports d'enquête transmis à notre Bureau soient complets. Le Service doit en outre veiller à ce que son processus d'enquête, non seulement soit complet et objectif, mais aussi permette, au niveau régional et au niveau national, de faire des corrélations entre les résultats de ses enquêtes, de les analyser et d'assurer un suivi, en temps opportun et de façon efficace.

En ce qui concerne l'examen par le Service de son processus d'enquête, on m'a récemment fait savoir qu'un rapport définitif avait été présenté et que la plupart des 71 recommandations qui figuraient dans le rapport avaient été acceptées. J'examinerais avec plaisir les changements en matière de politiques et de procédures qui découlent de ces recommandations.

17. VISITES DES AIRES D'ISOLEMENT ET DÉLÉGATION

a) 1992-1993

En vertu des modifications que le Service a apportées en novembre 1991 à la directive du Commissaire sur l'isolement, le directeur ou le sous-directeur du pénitencier ou une personne agissant en leur nom doit visiter quotidiennement l'aire d'isolement et rencontrer tout détenu qui s'y trouve et qui en a fait la demande. Les visites que nous avons effectuées dans des établissements et les plaintes de détenus mis en isolement que nous avons examinées nous ont amenés à constater que ces nouvelles exigences n'étaient pas respectées dans certains établissements. Nous avons signalé le problème aux autorités compétentes au palier des établissements et des régions, et comme elles ne nous ont pas assuré que la politique établie était suivie à la lettre, j'ai écrit au commissaire du Service correctionnel le 17 août 1992 pour lui faire savoir notamment que l'examen des pratiques d'isolement dans les établissements démontrait clairement que ni les directeurs ni les sous-directeurs ne visitaient quotidiennement l'aire d'isolement. J'invoquais le Commissaire à se prononcer sur cette question et recommandais que des directives plus précises soient émises concernant cette politique.

Le 1^{er} novembre 1992, la *Loi sur le système correctionnel et la mise en liberté sous condition* entrait en vigueur. Le paragraphe 36(2) de la Loi se lit comme suit :

Le directeur visite l'aire d'isolement au moins une fois par jour et, sur demande, rencontre tout détenu qui s'y trouve.

Cette responsabilité qui incombait au «directeur» peut être déléguée à un membre du personnel qui est désigné par son nom ou par son poste dans les ordres permanents de l'établissement ou dans les directives du Commissaire. La population carcérale doit pouvoir accéder facilement à cet instrument de délégation.

Le Service correctionnel du Canada a émis des directives du Commissaire révisées le 1^{er} novembre 1992, date de l'entrée en vigueur de la Loi. Les exigences de la Directive sur l'isolement concernant les visites quotidiennes restaient les mêmes : aucune disposition n'était prévue pour la délégation de cette fonction à un palier inférieur à celui de directeur ou de sous-directeur.

En outre, le paragraphe 19(2) se lit comme suit :

Le Service remet à l'enquêteur correctionnel une copie du rapport.

Le Service n'a toujours pas donné une définition *ad hoc* de ce qui constitue une « blessure grave », en dépit des nombreuses demandes qu'il a reçues à cet effet. La Loi est entrée en vigueur le 1^{er} novembre 1992, et le Commissaire ne m'a pas encore envoyé le moindre rapport d'enquête sur le cas d'un détenu ayant subi une « blessure grave ». En fait, je n'ai toujours pas reçu le moindre rapport requis en vertu de l'article 19 de la Loi.

Par conséquent, je recommande que le Service prenne immédiatement les mesures nécessaires pour que tous les rapports d'enquêtes, y compris les commentaires du Commissaire, requis par l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition, me soient envoyés dans les meilleurs délais.

b) Situation en mars 1994

On m'a d'abord fait savoir en août 1993, en réponse à ma recommandation appuyant l'élaboration d'une directive du Commissaire distincte afin de remédier aux incohérences et à l'absence de coordination dans ce domaine, qu'une directive révisée serait donnée avant la fin de décembre 1993.

J'ai reçu à l'automne de 1993 un projet de directive intitulée Rapports sur les blessures des délinquants, au sujet de laquelle nous avons fait des observations au Service. Nous avons plus tard appris qu'une nouvelle version serait distribuée pour examen et commentaire avant la fin de l'année. À la date de rédaction du présent rapport, aucune directive du Commissaire relative aux blessures subies par les détenus n'avait été donnée.

En ce qui concerne la question connexe des responsabilités du Service en vertu de l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition :

- la définition *ad hoc* de ce qui constitue une « blessure grave » reste à l'état d'ébauche;
- tous les incidents entraînant une blessure grave, selon la définition qu'en donnerait une personne raisonnable, ne font pas l'objet d'une enquête, comme l'exige l'article 19;
- la qualité des rapports d'enquête que notre Bureau a reçus est trop souvent peu satisfaisante.

On me dit que le Service procédera bientôt à l'examen de ses procédés d'enquête et j'appuie totalement cette initiative.

c) Situation actuelle

Les principales préoccupations sur cette question continuent de porter sur le processus d'enquête du Service et les responsabilités de ce dernier dans l'application de l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition. L'an dernier, dans le rapport annuel, j'écrivais entre autres choses :

- tous les incidents entraînant une blessure grave, selon la définition qu'en donnerait une personne raisonnable, ne font pas l'objet d'une enquête, comme l'exige l'article 19;
- la qualité des rapports d'enquête que notre Bureau a reçus est trop souvent peu satisfaisante.

On me dit que le Service procédera bientôt à l'examen de ses procédés d'enquête et j'appuie totalement cette initiative.

Afin de pouvoir répondre d'une manière raisonnable aux préoccupations soulevées sur cette question, le Service doit veiller à ce que :

- tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et objective, qui tienne compte des observations des détenus concernés;
 - la direction ait la responsabilité d'examiner les comptes rendus et de faire en sorte que des mesures correctives soient prises;
 - une base de données soit tenue à jour dans les régions et à l'échelon national sur les cas de recours à la force, le genre de force utilisée, les circonstances, le nombre de blessures, etc. en vue d'un examen et d'une analyse visant à faire en sorte que de tels incidents soient le plus rares possible. (Combien y a-t-il d'incidents de ce genre au cours d'une année?)
- Je n'arrive pas à comprendre pourquoi le Service continue d'être peu disposé à faire en sorte que les cas de recours à la force fassent l'objet d'une enquête complète et objective.

16. BLESSURES SUBIES PAR LES DÉTENUÉS

a) 1992-1993

En vertu de la *Loi sur le système correctionnel et la mise en liberté sous condition*, le Service doit «prendre toutes les mesures utiles pour que le milieu de vie et de travail des détenus (...) soient sains, sécuritaires (...)». Les enquêtes que nous avons menées concernant des problèmes liés à des blessures subies par des détenus ont révélé un manque d'uniformité et de cohérence au sein du Service dans le signalement d'incidents de ce genre et la tenue d'enquêtes subséquentes.

Ainsi, nous avons constaté que, contrairement à ce que l'on nous avait affirmé, le Rapport sur les blessures subies par un détenu n'est pas rempli dans tous les cas, à l'exception des accidents de travail. Rien n'indique, de surcroît, que les autorités compétentes au palier des établissements et des régions examinent ces relevés et prennent les mesures correctives qui s'imposent. Nous avons porté ces préoccupations à l'attention du personnel de l'administration centrale en mai 1992.

J'ai récemment été informé que le Service a pris plusieurs mesures afin de remédier à ce problème, notamment en proposant de rédiger une directive du Commissaire distincte relativement aux blessures subies par les détenus qui énoncerait des lignes directrices et des objectifs clairs à l'échelle nationale sur les mesures à prendre lorsqu'un détenu est blessé, quelles que soient les circonstances de l'incident.

Je recommande que le Service accorde une attention prioritaire à cette question et j'appuie sa proposition de rédiger une Directive distincte relative aux blessures subies par les détenus en vue de remédier aux incohérences et au manque de coordination en la matière.

La Loi sur le système correctionnel et la mise en liberté sous condition prévoit des dispositions complémentaires au paragraphe 19(1) :

En cas de décès ou de blessure grave d'un détenu, le Service doit sans délai faire enquête - même si une autre est déjà en cours au titre de l'article 20 - et remettre un rapport au commissaire ou à son délégué.

Le Service continue en disant que « de plus en plus d'enquêtes sont menées officiellement à la suite d'un cas de recours à la force ». Je n'ai aucune idée de ce qui constitue une « enquête officielle », mais je sais que c'est l'absence d'une structure formelle pour l'examen par le SCC de ce genre d'incident qui a conduit aux observations et aux recommandations initiales du Bureau dans ce domaine. Récemment, nous avons de nouveau écrit au Commissaire pour donner d'autres exemples d'incohérences dans la gestion et le compte rendu de ces incidents par le Service.

Au cours des deux années où j'ai parlé de ce problème, il n'a jamais été question dans le rapport annuel du fait que ces incidents devaient en faire l'objet d'enquêtes aux termes de l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition. En fait, notre Bureau n'a jamais mentionné l'article 19 de la Loi en ce qui concerne les enquêtes sur le recours à la force. C'est pourquoi je ne comprend pas du tout à quoi le Service peut faire allusion ni les raisons sur lesquelles il appuie sa position.

[Traduction]
Nous ne partageons pas l'avis de l'Enquêteur correctionnel selon qu'une enquête, aux termes de l'article 19 de la LSCMLC, est nécessaire dans chaque cas où se produit un recours à la force. Ces enquêtes sont coûteuses et longues.

Dans sa réponse sur cette question, en mars 1995, le Service disait ce qui suit :

J'avais repris cette recommandation parce que la série de modifications présentées par le SCC l'année précédente ne répondait pas aux observations faites par notre Bureau il y a deux ans, soit « que le Service ne menait pas toujours les enquêtes requises par sa politique et que, même lorsqu'une enquête est effectuée, rien n'indique que les détenus concernés aient été interrogés ni que les observations et les recommandations formulées à l'issue des enquêtes aient été examinées et mises en application en haut lieu. »

Dans mon rapport de l'an dernier, j'ai de nouveau recommandé, comme l'année précédente, que tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et que les détenus concernés soient interrogés dans le cadre de cette enquête.

c) Situation actuelle

Le Service n'a pas donné suite à mon autre recommandation dans ce domaine au sujet de la responsabilité de la direction, et c'est pourquoi je recommande de nouveau que la Directive énonce clairement les responsabilités des cadres supérieurs pour ce qui est de s'assurer que les rapports d'enquêtes sont complets et objectifs, et que les mesures de suivi qui s'imposent sont analysées, coordonnées et mises en oeuvre dans les meilleurs délais aux paliers régional et national.

Cette série de modifications, que cela soit voulu ou non, n'a eu d'autre résultat que de faire sanctionner les anciennes pratiques dans la politique actuelle. Je ne crois pas que l'examen par le directeur d'établissement du rapport sur le recours à la force, modifié ou non, constitue une enquête. Je ne crois pas non plus qu'un recours à la force devrait être considéré comme un cas habituel ni être décrit comme tel. Je recommande donc encore une fois au Service de veiller à ce que tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et que les détenus concernés soient interrogés dans le cadre de cette enquête.

Malheureusement, tous ces changements n'ont pas eu pour effet de résoudre le problème soulevé ici. En modifiant le Manuel de sécurité pour définir l'examen par le directeur de l'établissement du rapport sur le recours à la force comme constituant une « enquête » dans les cas habituels, on a, au fond, annulé la modification apportée à la directive du Commissaire pour exiger une enquête dans tous les cas de recours à la force. Pratiquement tout recours à la force est maintenant défini comme habituel. En outre, le nouveau rapport sur le recours à la force n'étant pas utilisé, rien n'indique que les détenus sont avisés de la possibilité de faire des observations et nous n'avons guère d'indices du fait que l'examen du directeur d'établissement, avant qu'il soit déterminé que le recours à la force était un cas habituel, ait comporté la prise en compte des observations des détenus.

15. RECOURS À LA FORCE - ENQUÊTES ET SUIVI

a) 1992-1993

Aux termes de la politique du Service énoncée dans la directive du Commissaire qui porte sur cette question, le recours à la force est défini comme suit :

la contrainte physique des détenus par le contrôle physique et par l'utilisation de matériel de contrainte, d'agents chimiques et d'irritants par pulvérisation sanctionnés, de matraques, de tuyaux d'arrosage, de chiens patrouilleurs et d'armes à feu.

On lit également dans cette même Directive :

À la suite d'un incident où il y a eu recours à la force, le directeur ou une autorité désignée doit normalement demander qu'une enquête soit faite.

Nous avons remarqué, en examinant des plaintes au sujet du recours à la force, que le Service ne menait pas toujours les enquêtes requises par sa politique. Nous avons également constaté que, même lorsqu'une enquête est effectuée, rien n'indique, dans la plupart des cas, que l'enquêteur ait contacté les détenus concernés ni que les recommandations formulées à l'issue des enquêtes aient été examinées et mises en application en haut lieu.

Le Service est tenu de s'assurer que les incidents où il y a eu recours à la force font l'objet d'une enquête approfondie et objective, et que les mesures correctives qui s'imposent sont prises dans des délais raisonnables. Nous avons porté cette question à l'attention des hauts responsables du Service correctionnel, tant au palier régional qu'au palier national, et avons été informés que des modifications au Manuel de sécurité du Service sont à l'étude. Je recommande que le Service modifie sa politique de manière à s'assurer que tous les incidents où il y a eu recours à la force font l'objet d'une enquête et que les détenus concernés sont interrogés dans le cadre de cette enquête. Il conviendrait d'insérer ces modifications dans la directive du Commissaire où elles seraient le mieux placées. Je recommande également que la Directive énonce clairement les responsabilités des cadres supérieurs pour ce qui est de s'assurer que les rapports d'enquêtes sont complets et objectifs, et que les mesures de suivi qui s'imposent sont analysées, coordonnées et mises en oeuvre dans les meilleurs délais aux paliers régional et national.

b) Situation en mars 1994

En réponse à ma recommandation où je lui demandais de s'assurer que «tous les incidents où il y a eu recours à la force font l'objet d'une enquête et que les détenus concernés sont interrogés dans le cadre de cette enquête», le Service a procédé, à l'automne de 1993, à un certain nombre de changements touchant sa ligne de conduite et sa façon de procéder :

- la directive du Commissaire n° 605 (Recours à la force) a été modifiée par insertion de ce qui suit : «À la suite d'un incident où il y a eu recours à la force, le directeur ou une autorité désignée doit demander qu'une enquête soit faite»;

- le rapport du Service sur le recours à la force a été modifié de façon que le détenu puisse indiquer s'il souhaite ou non présenter des observations au directeur de l'établissement;

- le Manuel de sécurité du Service a été modifié pour indiquer que l'examen du nouveau rapport par le directeur de l'établissement dans un cas habituel de recours à la force constituerait l'enquête nécessaire.

J'estime que le Service correctionnel n'a pas porté une attention objective et raisonnable aux questions soulevées, soit le bien-fondé de l'accusation, la sévérité de la peine imposée et le non-respect de sa politique de comptes rendus des audiences portant sur des infractions mineures. Ma recommandation en faveur de l'annulation de la condamnation et du remboursement des vingt-cinq dollars d'amende au plaignant a été rejetée.

b) Situation en mars 1994

Le Service n'a pas commenté les reproches que je lui faisais l'an dernier parce qu'il ne conservait pas de comptes rendus d'audiences disciplinaires.

Selon le paragraphe 33(1) du *Règlement* d'application de la Loi sur le système correctionnel et la mise en liberté sous condition :

Le Service doit veiller à ce que toutes les auditions disciplinaires soient enregistrées de manière qu'elles puissent faire l'objet d'une révision complète.

En dépit du *Règlement*, des observations faites dans le passé par le Bureau et de l'engagement pris en 1990 par le Service de rédiger un compte rendu de toutes les audiences disciplinaires, le Bureau continue de rencontrer des cas où il n'existe pas de compte rendu satisfaisant. Je recommande donc au Service de prendre immédiatement les mesures qui s'imposent pour que toutes les audiences portant sur des manquements à la discipline soient enregistrées de manière qu'elles puissent faire l'objet d'un examen complet. Je recommande également que le Service procède à une vérification de ses lignes de conduite et pratiques actuelles en matière de discipline, y compris en ce qui concerne l'isolement disciplinaire, afin de s'assurer qu'elles sont conformes à la Loi et au *Règlement*.

c) Situation actuelle

Le Commissaire a informé le Bureau, en octobre 1994, que l'on avait de nouveau rappelé aux directeurs d'établissement l'obligation de conserver un compte rendu de l'audience disciplinaire.

L'an dernier, réagissant au nombre croissant de plaintes relatives au processus disciplinaire, je recommandais ce qui suit :

Que le Service procède à une vérification de ses lignes de conduite et pratiques actuelles en matière de discipline, y compris en ce qui concerne l'isolement disciplinaire, afin de s'assurer qu'elles sont conformes à la Loi et au Règlement.

Le Service m'a fait savoir en octobre 1994 qu'un examen du processus disciplinaire et de sa conformité avec le règlement était en train de se faire, et qu'un compte rendu des conclusions serait prêt en octobre. Je n'ai jamais vu le résultat de cet examen.

Le Commissaire m'a plus tard signalé qu'une vérification complète du processus avait été effectuée en 1992. Il ajoutait qu'il avait été décidé en décembre 1993 que, avant de poursuivre l'examen de cette fonction, y compris en ce qui concerne les dispositions législatives, on devrait attendre que le processus prévu dans la LSCMLC soit utilisé.

Notre Bureau n'a pas été capable de trouver trace de la vérification complète dont il est question et je remarque que la Loi sur le système correctionnel et la mise en liberté sous condition a été adoptée il y a 30 mois.

Le fait est que, sur cette question, le Service n'a pas donné suite à ma recommandation de l'an dernier.

constater que si les établissements connaissent à n'en pas douter la nouvelle politique, il reste que la qualité et le contenu des registres varient énormément d'un endroit à l'autre. Ce manque d'uniformité ne facilite certes pas les enquêtes menées à ce sujet soit dans le cadre de la procédure de règlement des griefs administrée par le Service, soit par notre Bureau. Par conséquent, je recommande que l'examen des opérations régionales comprenne une analyse des comptes rendus d'audiences portant sur des infractions mineures.

Pour autant que je sache, l'examen des opérations régionales sur ce point se fait toujours attendre.

En ce qui concerne la plainte précitée, nous nous posons de sérieuses questions sur la légitimité de l'accusation et de la condamnation, ainsi que sur le bien-fondé de l'amende imposée.

Le Service est tenu de s'assurer que les détenus obtiennent en temps opportun tous les renseignements pertinents se rapportant à la gestion de leur cas. C'est pourquoi le rapport en question a été remis au plaignant. Le Service doit également s'assurer que les renseignements contenus dans ses rapports sont exacts et complets, et que les détenus ont accès à un mécanisme de recours lorsque des corrections doivent y être apportées. Rien n'indique que le plaignant ait été avisé, soit avant qu'il consigne ses objections dans le rapport, soit après, de la voie de recours qu'il convenait d'utiliser pour réclamer des corrections.

L'amende de vingt-cinq dollars, soit l'équivalent de plus d'une semaine de salaire, était, à mon sens, excessive et, de surcroît, contraire à l'objet de la sanction disciplinaire qui doit être d'abord et avant tout corrective.

Le directeur de l'établissement et le sous-commissaire régional concernés ont examiné la question pour tenter de la résoudre. Tous deux ont corroboré le bien-fondé de la condamnation et de l'amende infligée. En mai 1992, nous avons écrit à l'administration centrale pour exposer nos préoccupations, en indiquant que le directeur de l'établissement et le sous-commissaire régional avaient soigneusement examiné l'affaire, et pour demander un nouvel examen. En juin 1992, le Commissaire adjoint à la haute direction nous a répondu qu'il avait examiné la correspondance que nous avions échangée avec le directeur de l'établissement et le sous-commissaire régional, et qu'il appuyait leur position. Il ajoutait que si nous avions d'autres questions à ce sujet, nous devrions les poser directement au directeur de l'établissement et au sous-commissaire.

À la suite d'un nouvel examen de l'affaire, j'ai écrit au Commissaire pour lui faire savoir qu'à mon avis, l'accusation était injustifiée, la condamnation abusive et l'amende excessive. J'ajoutais que l'établissement n'avait pas conservé de compte rendu de l'audience disciplinaire en question, ce qui n'était pas conforme à la politique du Service ni à ma recommandation en la matière.

Dans sa réponse, le Commissaire n'a pas fait d'observations significatives ni démontré qu'il avait examiné en profondeur l'une ou l'autre des questions soulevées. Après de nouveaux échanges à ce sujet avec le bureau du Commissaire, le Commissaire adjoint à la haute direction s'est prononcé, en mars de cette année, en ces termes :

[Traduction]

J'ai examiné cette affaire avec tous les intérêts. Il ne fait aucun doute que l'amende est lourde. Toutefois, le directeur de l'établissement a soigneusement étudié le cas avant de rendre sa décision. J'appuie sa décision et ne recommande pas la réouverture du dossier.

Nous laisserons de côté les questions concernant le bien-fondé de l'accusation et de la condamnation que le Service n'a pas encore tranchées. Quant à la décision, elle n'a pas été rendue par le directeur du pénitencier, mais par un gestionnaire d'unité. Par ailleurs, le directeur pouvait difficilement étudier soigneusement le cas puisque le Service a négligé de conserver un compte rendu de l'audience disciplinaire. En ce qui concerne l'examen de l'affaire «avec tous les intérêts», pour autant que je sache, le détenu n'a jamais été consulté dans le cadre dudit examen.

En avril 1989, j'ai écrit au Commissaire qu'il était aujourd'hui inadmissible que le public ne puisse savoir le nom des fonctionnaires à qui il a affaire, surtout quand il s'agit d'agents de la paix. On m'a informé par la suite que le Service avait examiné la question et décidé que le personnel qui ne portait pas d'insigne d'identité devrait le faire quand le nouvel uniforme serait adopté, soit entre juin et octobre 1992. J'ai indiqué dans mon rapport annuel de 1990-1991 qu'il n'était pas «raisonnable de retarder d'encore dix-huit mois la mise en application d'une décision de principe prise pour régler un problème soulevé pour la première fois au début de 1989».

J'apprends aujourd'hui que les nouveaux uniformes doivent être distribués le 1^{er} juillet 1993 et que les membres du Comité de direction ont confirmé que, dès la remise des uniformes, tous les employés (en uniforme ou en civil) des établissements seront tenus de porter l'insigne d'identité. Il aura donc fallu, non plus dix-huit mois, mais trente-deux mois pour régler une question soulevée au début de 1989.

b) Situation en mars 1994

Le Comité de direction du Service a décidé en mai 1993 que, à compter du 1^{er} juillet suivant, tous les employés (en uniforme ou en civil) des établissements seraient tenus de porter l'insigne d'identité. Cette question devrait donc être réglée.

c) Situation actuelle

Il suffit de se rendre dans un certain nombre de pénitenciers fédéraux pour y voir que la politique sur le port de l'insigne d'identité n'est pas uniformément appliquée. Je recommande donc au Commissaire de donner une directive sur cette question pour que tous soient tenus d'appliquer cette politique.

14. DÉCISIONS RENDUES PAR LES TRIBUNAUX DISCIPLINAIRES

a) 1992-1993

Au cours de l'année, un détenu nous a contactés au sujet d'une décision et d'une amende sanctionnant un manquement mineur à la discipline. Le détenu avait été accusé de «dommages causés volontairement ou par négligence aux biens de Sa Majesté ou aux biens d'autrui». Cette accusation résultait d'un incident au cours duquel le plaignant, après avoir reçu copie de son rapport d'évaluation psychologique pour qu'il en prenne connaissance et le signe, avait consigné dans ce rapport ses objections concernant les «inexactitudes» et les «erreurs» qu'il y avait relevées. Le tribunal l'a condamné pour manquement mineur à la discipline à une amende de vingt-cinq dollars. Le plaignant nous a affirmé que, lors de l'audience, il avait tenté d'expliquer son geste, mais que le président du tribunal avait refusé de l'entendre.

Dans le cadre de notre enquête sur cette affaire, nous avons demandé copie du compte rendu de l'audience du tribunal disciplinaire. On nous a informés que l'établissement ne tenait pas de registre de telles audiences. Je crois devoir signaler la chose aujourd'hui parce qu'en janvier 1990, le Service a donné suite à une recommandation que nous avions formulée en 1988 en émettant une instruction provisoire pour que les renseignements de base sur les audiences portant sur des infractions mineures soient consignés, électrographiquement ou par tout autre moyen, et conservés pendant deux ans. Le Service a modifié officiellement sa politique en publiant une directive du Commissaire révisée en août 1990. L'infraction mentionnée plus haut a été commise à l'automne de 1991.

Je terminais mon rapport annuel de 1990-1991 sur cette question en disant :

Ainsi que je le signalais l'an dernier, il était assez évident qu'entre la publication de l'instruction provisoire et celle de la Directive révisée, on s'était fort peu soucie d'informer les établissements des modifications apportées à la politique. Les enquêtes que nous avons menées pendant l'année à l'étude au sujet de plaintes relatives à des décisions rendues dans des cas de manquement mineur à la discipline nous ont permis de

b) Situation en mars 1994

On m'a fait savoir en décembre 1993, le Service n'ayant pas respecté entre-temps sa décision de mars 1993 d'avoir des discussions avec le Bureau, que «[traduction] la procédure en ce qui concerne l'incapacité mentale continue d'être du ressort des provinces et varie sensiblement selon la province en cause. Le SCC n'est pas en mesure d'envisager une politique nationale tant qu'une Loi uniforme sur la santé mentale n'aura pas été adoptée, ce qui ne devrait pas se produire dans un proche avenir».

Je ne suis pas d'accord avec le Service sur ce sujet. J'aurais pensé que l'absence de directive nationale dans ce domaine, l'ampleur des problèmes de santé mentale que l'on constate dans les pénitenciers fédéraux et le fait que l'uniformisation qu'apporterait une loi nationale n'est pas près de se produire sont des raisons suffisantes pour que le Service élabore une politique nationale.

c) Situation actuelle

Pendant l'année qui vient de s'écouler, des progrès considérables ont été accomplis pour ce qui est à la fois des précisions apportées au sujet des préoccupations exprimées sur cette question et de la détermination d'une orientation en vue d'y répondre. Dans sa réponse de mars 1995, le Commissaire a écrit ce qui suit :

[Traduction]

La question de l'incapacité et de ses répercussions a été mentionnée parmi les préoccupations permanentes par l'Enquêteur correctionnel. La raison en est, du moins en partie, que l'on y voit une préoccupation d'ordre général, qui peut englober plusieurs problèmes. À cette question se rapporte la définition légale de l'incapacité, telle qu'elle est définie dans les lois provinciales, et, d'une manière générale, le grand nombre de délinquants qui, s'ils sont capables au sens de la loi, ne sont pas toujours en mesure de faire face aux difficultés de la vie quotidienne.

Comme la question de l'incapacité mentale et de la tutelle des adultes est du ressort des provinces et qu'elle est régie par des lois provinciales complexes et très diverses, il n'existe pas de façon simple d'assurer une approche cohérente au sein du SCC. Il n'y a pas de façon uniforme d'aborder la santé mentale au Canada, malgré l'existence d'un projet de Loi uniforme sur la santé mentale.

Parmi les préoccupations soulevées, on peut toutefois penser notamment aux délinquants qui, tout en étant capables au sens de la loi, ne sont pas à même de se débrouiller dans la vie quotidienne. Pour ces délinquants, le SCC applique un plan à long terme, qui relève de sa stratégie en matière de santé mentale. Dans le cadre de son Plan opérationnel intégré, le Service prévoit de construire ou d'aménager jusqu'à 6 % de ses cellules pour les délinquants qui souffrent de troubles mentaux. Ces unités ont principalement pour objet d'assurer les soins et l'aide dont il est question dans le rapport de l'Enquêteur correctionnel.

Il y a récemment eu échange de lettres entre le Bureau et le Service correctionnel du Canada afin de préciser les points sur lesquels portera encore la consultation, et nous comptons sur une approche coopérative pour le traitement de cette question difficile mais importante.

13. PORT DE L'INSIGNE D'IDENTITÉ

a) 1992-1993

La question du port de l'insigne d'identité, qui était au cœur de l'enquête que nous avons effectuée en 1984 au pénitencier Archambault, n'a jamais été complètement résolue. Je faisais observer dans mon rapport de 1988-1989 que bien des membres du personnel négligent ou refusent de porter leur insigne d'identité quand ils sont de service.

Nous avons ultérieurement abordé la question au cours de réunions avec le personnel du Service correctionnel en janvier et mars 1992; le Service a entrepris d'examiner les points soulevés dans la lettre que nous lui avions fait parvenir. J'apprends aujourd'hui qu'à compter de mars 1993, le Service entamera des discussions avec le bureau de l'Enquêteur correctionnel afin de mieux comprendre la nature nos préoccupations concernant cette question, d'évaluer l'ampleur du problème et de déterminer les mesures que le Service pourrait adopter pour renforcer le processus actuel, en plus des pratiques habituelles favorisant la bonne gestion des cas. Je suis impatient d'entamer de telles discussions.

- (d) les procédures mises en oeuvre lorsque des personnes extérieures au Service informent le personnel qu'elles soupçonnent un détenu de souffrir d'incapacité mentale.
- (c) les mesures prises par le Service afin de placer un détenu sous curatelle ou tutelle, en vertu d'une loi provinciale ou autre, lorsque le Service estime que celui-ci souffre d'incapacité mentale;
- (b) les activités auxquelles s'applique la notion d'incapacité mentale décelée chez un détenu (gestion des finances personnelles, projet de sortie, etc.);
- (a) les mesures prises pour juger de la capacité d'un détenu de gérer ses propres affaires lorsque le personnel signale l'existence probable d'un problème à cet égard;

J'ai indiqué dans mon rapport de l'an dernier que la question de l'opportunité de la décision de placer sous curatelle ou sous tutelle, en vertu de diverses lois provinciales pertinentes, les détenus considérés comme mentalement inaptes a été posée au Service en août 1991. En octobre 1991, nous avons écrit au bureau du Commissaire afin d'obtenir de l'information, notamment sur les points suivants :

a) 1992-1993

12. INCAPACITÉ MENTALE

Globalement, je dois de nouveau dire que notre Bureau n'a jamais eu l'intention d'accuser qui que ce soit ni de déterminer des responsabilités, mais il voulait faire examiner avec minutie et objectivité par le Service les questions soulevées par sa propre Commission d'enquête. Ce qu'il n'a manifestement jamais fait.

Ce sur quoi l'on peut s'interroger ici, longtemps après les événements, c'est la minutie du travail de la Commission d'enquête du Service, laquelle a conclu que le détenu n'avait « subi aucune blessure », et l'objectivité du Service lorsqu'on lui a présenté des informations allant dans le sens contraire.

La photographie dont il est question dans la réponse du Commissaire provenait du dossier gardé sur le détenu à l'établissement, de même que l'information d'ordre médical fournie au Commissaire et qui montrait clairement que le détenu avait subi des blessures probablement attribuables à des voies de fait. Depuis deux ans et demi, plutôt que de traiter directement de cette information, le Service a tourné autour du pot. Pour moi, depuis un certain temps, cela ne sert plus à rien d'en discuter - sur cette question, la Commission d'enquête avait tort et le Service n'a vraiment cherché, dans le meilleur des cas, qu'à gagner du temps.

Dans la réponse qu'il a donnée en mars 1995, le Commissaire déclare que le Service a examiné une vidéo de télévision qui montre le détenu peu après l'incident, une photographie présentée par M. Stewart et des observations faites par le négociateur, et qu'il a conclu que le détenu n'avait pas fait l'objet de voies de fait à la suite de la prise d'otages.

Allégation de voies de fait sur l'auteur de la prise d'otages

c) Situation actuelle

D'une manière à la fois plus générale et plus personnelle, je suis préoccupé par la façon dont le Service a réagi au sujet de cette affaire. Le Bureau n'a jamais eu l'intention d'accuser qui que ce soit ni de déterminer des responsabilités. Nous n'étions pas sur place, et je n'en doute pas, les décisions et les mesures prises par ceux qui étaient chargés de la gestion de l'incident ont été prises de bonne foi. Notre intention était d'amener le Service à examiner en détail et objectivement les questions soulevées par sa propre commission d'enquête. Ce qu'il n'a jamais fait.

Au sujet de cette question, le Commissaire a déclaré en mars 1995 : « Le Service a informé le Ministre, le 3 octobre 1994, que, à son avis, la discussion est close. »

Toute cette question et la façon dont le Service l'a traitée en disent plus sur l'objectivité et le caractère minutieux de son processus d'enquête que sur l'incident survenu au pénitencier de la Saskatchewan il y a quatre ans.

Au risque de me répéter et dans l'espoir que l'on accorde une certaine attention à des questions qui continuent d'avoir de l'importance pour les opérations du Service correctionnel du Canada, je présente les observations qui suivent sur les quatre sujets de préoccupation soulevés à l'origine.

Politique sur les prises d'otages

Ce qui constitue l'élément central de cette question, ce sont la clarté et la connaissance des directives en place à l'époque sur l'utilisation de la drogue comme élément de négociation et le rôle des négociateurs de l'extérieur. S'il existe dans ce domaine une politique claire et généralement bien comprise, le Service pourrait peut-être énoncer cette politique et établir le lien entre celle-ci et ce qui est arrivé au pénitencier de la Saskatchewan.

Examen de la violence dans les établissements

Il s'agissait ici de l'intégration des détenus en isolement protecteur à la population carcérale générale. Au milieu de l'année 1992, en réponse aux préoccupations soulevées par la propre enquête interne du Service, le Commissaire avait décidé de lancer une étude nationale sur l'intégration des détenus en isolement protecteur et sur les répercussions des politiques régissant ce processus ». Ainsi que je l'ai indiqué dans mon rapport annuel de 1992-1993, cet examen national avait été abandonné sans préavis ni explication au profit d'une « étude de fond sur la violence chez les détenus ». J'ajoutais, la même année, que cette « étude de fond » était centrée uniquement sur trois établissements dont un seul faisait des efforts pour intégrer les détenus en isolement protecteur. J'ai conclu en disant que les résultats de cette étude, qui ont été communiqués à un très petit nombre de personnes au sein du SCC, ne touchaient que de loin les préoccupations associées au processus d'intégration et ne correspondaient pas vraiment à l'engagement pris par le Service d'établir une base de données précises pour la gestion du processus d'intégration.

Comme un certain nombre de régions adoptent, en réponse au surpeuplement, une politique d'intégration des détenus en isolement protecteur à la population carcérale générale, je pense que le Service ferait bien de revenir à ce qu'il avait commencé de faire dans ce domaine en 1992.

Lignes directrices en matière de sécurité préventive

Cette question portait à l'origine sur le fait que ceux qui étaient responsables sur place de la gestion de l'incident ne disposaient pas de renseignements pertinents relevant de la sécurité préventive sur l'un des auteurs de la prise d'otages. Depuis, beaucoup d'autres sujets de préoccupation ont été soulevés en ce qui concerne la coordination, la vérification, la communication et la correction des renseignements de sécurité préventive ainsi que le rôle des agents de sécurité préventive. Dans sa réponse de mars 1995, le Commissaire a fixé le 30 avril 1995 comme « date limite » pour la production de normes en matière de sécurité préventive. Nous verrons si ces normes ont rapport à la question posée ici.

- (d) le fait que l'enquête du Service ait conclu que l'auteur survivant de la prise d'otages n'avait subi aucune blessure, alors qu'un simple examen de son dossier médical aurait montré le contraire.
- (c) la publication retardée des normes et des lignes directrices en matière de sécurité préventive;
- (b) l'absence d'un examen détaillé des questions liées à l'intégration des détenus en isolement protecteur et à la violence dans les établissements;
- a) la clarté et la connaissance des directives du Service sur l'utilisation de la drogue comme élément de négociation et le rôle des négociateurs de l'extérieur;
- N'ayant eu connaissance d'aucun fait nouveau dans cette affaire, je n'en ai pas moins gardé un certain nombre de préoccupations au sujet de ce qui suit :
- Je maintiens mes observations de l'an dernier au sujet de la valeur de l'enquête et des mesures prises par le Service dans les deux années qui ont suivi cette enquête.
- Trois années ont passé depuis cet incident tragique. Au cours de l'année, le Service n'a pas vraiment commenté les questions que soulèvent l'incident même et l'enquête qu'il a menée.

b) Situation en mars 1994

Au cours de l'année qui vient de s'écouler, par suite de nos contacts avec l'auteur de la prise d'otages qui a survécu à l'incident, deux nouvelles questions ont fait surface. La première se rapporte au fait que ce détenu affirme avoir été brutalisé par le personnel du Service après l'incident, et la seconde concerne le conflit d'intérêts possible résultant du fait que le négociateur principal chargé du règlement de l'incident est devenu par la suite le défenseur de l'auteur de la prise d'otages. Ces questions ont été portées à l'attention des autorités compétentes au sein du Service correctionnel du Canada, et j'attends leurs conclusions.

Le noeud du problème, deux ans après l'incident, c'est que rien n'indique que le Service ait pris des mesures correctives dignes de ce nom sur l'une ou l'autre des questions soulevées.

À la disposition de ceux qui en ont besoin dans les meilleurs délais.

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Je suis revenu sur les engagements pris par le Service correctionnel et sur les nouvelles questions qu'il soulevait dans la lettre de juin 1992. On m'a informé que le programme de formation sur la gestion des situations d'urgence qui devait clarifier les questions associées à « l'utilisation de la drogue comme élément de négociation » et « l'accessibilité des dispositifs de surveillance audiovisuels » n'était pas encore prêt. L'examen lancé à l'échelle nationale par le Commissaire sur les répercussions des politiques du Service régissant « l'intégration des détenus en isolement protecteur » avait été abandonné au profit d'une « étude de fond sur la violence chez les détenus ». Cette « étude de fond » est centrée uniquement sur trois établissements dont un seul fait des efforts pour intégrer les détenus en isolement protecteur. Les résultats de cette étude, qui ont été communiqués à un très petit nombre de personnes au sein du Service correctionnel, n'abordent que de loin les préoccupations associées au processus d'intégration. Quant au contenu du document, il démontre, à mon avis, que le Service correctionnel n'a pas rempli l'engagement pris en juin 1992 d'effectuer une étude nationale en vue d'obtenir des renseignements plus précis concernant les forces et les faiblesses de ses politiques et d'améliorer la gestion du processus. En ce qui a trait à la question de « l'accès aux renseignements concernant les prises d'otages antérieures », le Service a reconnu que le noeud du problème résidait dans le fait que les renseignements concernant l'un des auteurs de la prise d'otages qui avait déjà participé à un incident de ce genre n'avaient pas été communiqués au moment opportun aux autorités qui en avaient le plus besoin. Pour remédier à ce problème, le Service a ordonné que le rôle des services de sécurité préventive soit réexaminé. J'attends toujours les résultats de cet examen ainsi que des indications claires de la part du Service sur la façon dont il compte s'assurer que les renseignements pertinents sont mis à la disposition de ceux qui en ont besoin dans les meilleurs délais.

b) la seconde série de documents fournis des renseignements sur un incident qui s'est produit en mai 1980 à l'établissement Millihaven, dans lequel était impliqué un certain H.D. MacDonald, et non G.J. McDonald.

Il semble que non seulement l'administration centrale n'ait pas fourni les renseignements demandés, mais qu'elle ait également divulgué des informations erronées susceptibles de nuire à l'un des participants.

Dans sa lettre, le Commissaire indique que les renseignements dont disposait effectivement le pénitencier sur le détenu McDonald confirmaient qu'il avait été impliqué dans des prises d'otages antérieures au pénitencier de Dorchester (en avril 1979) et à l'établissement Millihaven (avril 1980). Auriez-vous l'obligeance de me fournir des renseignements précis concernant l'incident survenu à Millihaven en avril 1980? Pourriez-vous également m'envoyer copie du rapport d'enquête sur l'incident du pénitencier de Dorchester en avril 1979? Il est recommandé que des mesures soient prises immédiatement pour que les gestionnaires de situations d'urgence aient accès aux renseignements détaillés dont ils peuvent avoir besoin sur des prises d'otages antérieures, y compris aux rapports d'enquêtes sur ces incidents.

Le rapport de la commission d'enquête n'aborde pas tous les aspects du problème et est peu concluant.

Outre les renseignements précis demandés sur les points précités, j'ai invité le Service à ajouter des commentaires complémentaires qui seront incorporés dans notre rapport final sur cette question.

Le 10 juin 1992, le Service correctionnel du Canada nous a fait parvenir sa réponse en nous fournissant les renseignements suivants sur les questions soulevées :

a) L'utilisation de la drogue comme élément de négociation - même si le Service persistait à contredire les conclusions de sa propre commission d'enquête, il indiquait que le Commissaire avait décidé de prendre des mesures particulières pour remédier à ce problème et qu'il avait approuvé la conception et la mise en oeuvre d'un programme de formation sur la gestion des situations d'urgence, l'un des éléments clés de ce programme visant à fournir des éclaircissements sur la politique de non-compromis.

b) L'accessibilité aux dispositifs de surveillance audiovisuels - le programme de formation sur la gestion des situations d'urgence porte précisément sur les questions comparables à celles qui se sont posées lors de cet incident et comporte un volet important sur l'accessibilité et l'utilisation des dispositifs de surveillance, audiovisuels ou non.

c) La politique d'intégration des détenus en isolement protecteur à la population carcérale générale - tout en s'efforçant de minimiser l'importance de cette question, le Service a reconnu que le Commissaire partageait les préoccupations exprimées dans ce rapport, et qu'il avait décidé récemment de lancer une étude nationale sur l'intégration des détenus en isolement protecteur et sur les répercussions des politiques régissant ce processus. Selon le Service, les résultats de cet examen, qui devraient être prêts d'ici à janvier 1993, fourniront des éléments d'information plus précis sur les forces et les faiblesses des politiques actuelles, et permettront d'améliorer la gestion d'un tel processus.

d) L'accès aux renseignements concernant l'un des auteurs d'une prise d'otages qui avait déjà participé à incident semblable - en dépit des éléments de preuve avancés par sa propre commission d'enquête, le Service persistait à dire que les renseignements pertinents avaient été fournis en temps opportun. Loin de clarifier la situation, les commentaires qu'il ajoute soulèvent plutôt de nouvelles questions concernant la pertinence des renseignements fournis et leur caractère opportun.

En réponse à cette question, le Commissaire a indiqué que l'on avait rarement besoin de tels dispositifs lors de ce genre d'incident et que, par conséquent, la commission d'enquête estimait que les directeurs d'établissement tiraient leurs propres conclusions et prendraient les mesures correctives nécessaires. Je ne comprends pas la logique de cette conclusion.

Il me semble que chaque établissement aurait tout intérêt à prendre les mesures nécessaires pour s'assurer l'accès immédiat à l'assistance technique extérieure requise en cas de besoin. À mon sens, il aurait été plus judicieux de formuler une recommandation à cet effet que de laisser chaque directeur tirer ses propres conclusions.

La troisième question concernait les difficultés que pose l'intégration des détenus en isolement protecteur à la population carcérale générale au pénitencier de la Saskatchewan, compte tenu du nombre croissant de détenus endurcis à sécurité maximale dans cet établissement.

Dans son rapport, la commission d'enquête indique que les efforts d'intégration donnent de bons résultats, mais que cela ne signifie pas pour autant qu'ils ne posent aucun problème. Elle note également l'insatisfaction exprimée tant par le personnel que par les détenus à l'égard du nombre croissant de « perturbés » admis à l'établissement. M. Stewart a demandé pourquoi, compte tenu de ses observations, la commission ne formulait aucune remarque concluant sur l'utilité de poursuivre la politique d'intégration actuelle du Service. Le Commissaire a répondu que la commission d'enquête estimait que l'évaluation de la politique du Service dans ce domaine ne relevait pas de sa compétence.

Il n'était pas suggéré que la commission d'enquête évalue la politique d'intégration du Service, bien que l'ordre de convocation et les attributions de la commission ne semblent pas exclure une telle initiative. On laissait plutôt entendre, compte tenu des observations et des commentaires de la commission, qu'un examen de cette politique était nécessaire pour qu'il soit possible de trancher une question qui préoccupait manifestement à la fois le personnel et les détenus.

La quatrième question concernait l'accès aux renseignements relatifs à la prise d'otages à laquelle le détenu McDonald avait déjà participé au pénitencier de Dorchester.

L'établissement a demandé à l'administration centrale des renseignements sur la façon dont s'était déroulée la prise d'otages à laquelle le détenu McDonald avait déjà participé. Le Commissaire, dans sa lettre, a mentionné que l'établissement ne disposait pas de renseignements détaillés sur les mesures prises par les gestionnaires de situations d'urgence pour dénouer la crise, sur le comportement de McDonald lors de l'incident, sur les revendications formulées et sur le dénouement de l'incident. Il ajoutait que de tels renseignements n'étaient consignés que dans les rapports d'enquêtes menées sur des incidents de ce genre. Le fait est que ces renseignements ne se trouvent fort probablement que dans les rapports d'enquêtes menées à la suite de ce genre d'incident, mais cela ne répond pas à la question de savoir pourquoi ceux qui peuvent en avoir besoin n'y ont pas accès.

Nous avons examiné les deux séries de documents télécopiés au pénitencier de la Saskatchewan lors de la prise d'otages en réponse à la demande de renseignements de la direction de l'établissement concernant le dénouement de l'incident auquel avait déjà participé McDonald. Voici nos observations :

a) la première série de documents ne contient pas de renseignements pertinents concernant la prise d'otages survenue à Dorchester en avril 1979, à l'exception de cette phrase tirée d'un rapport rédigé à Edmonton en mai 1983 : [Traduction] « Ce détenu a participé à une prise d'otages au pénitencier de Dorchester au cours de laquelle des blessures ont été infligées aux otages (membres du personnel) »;

11. PRISE D'OTAGES - PÉNITENCIER DE LA SASKATCHEWAN

a) 1992-1993

Cet incident, qui s'est produit le 25 mars 1991, a entraîné la mort de deux détenus. Après avoir examiné le rapport publié par la commission d'enquête du Service correctionnel concernant cet incident, j'ai écrit au Commissaire le 7 août 1991 afin de lui demander un supplément d'information sur quatre points du rapport d'enquête.

Comme je l'ai indiqué l'an dernier, mes observations portaient sur les points suivants :

- a) la décision de faire de la drogue un élément de négociation;
- b) l'accessibilité aux dispositifs de surveillance audiovisuels;
- c) la politique d'intégration des détenus en isolement protecteur à la population carcérale générale;
- d) l'accès aux renseignements concernant l'un des auteurs de la prise d'otages qui avait déjà participé à un incident semblable dans un autre établissement.

Je terminais mon rapport de l'an dernier sur cette question en disant que je jugeais «insatisfaisante» la réponse du Commissaire sur ces points et que nous avions écrit une nouvelle fois à l'administration centrale le 28 avril 1992 pour faire part au Commissaire de notre insatisfaction à l'égard de la réponse fournie. Voici le contenu de cette lettre du 28 avril 1992 :

[Traduction]

La présente fait suite à notre rencontre du 12 mars 1992 et se rapporte aux conclusions de la commission d'enquête sur la prise d'otages au pénitencier de la Saskatchewan ainsi qu'à nos échanges de correspondance antérieurs.

Dans sa lettre du 7 août 1991, ci-jointe, M. Stewart demandait des éléments d'information sur quatre questions générales traitées dans le rapport de la commission d'enquête.

La première question portait sur la décision prise par la direction de faire de la drogue un élément de négociation, et le moment choisi pour une telle décision, ainsi que sur ses répercussions, à la lumière de la conclusion de la commission d'enquête, concernant la ligne de conduite adoptée de longue date par le Service selon laquelle «la remise de drogues aux détenus pour faciliter les négociations est interdite».

Du fait de sa nature même, la prise d'otages dans un pénitencier constitue «une menace réelle de mort ou voies de fait graves». Dans cette perspective, nous ne comprenons pas la réserve faite à l'égard de cette politique à la page un de la lettre du Commissaire de novembre 1991.

Le Commissaire ajoute que la remise de médicaments et l'opportunité d'une telle décision dans le cas de cet incident font l'objet d'un examen, et que des directives plus claires seront fournies aux sous-commissaires et aux directeurs d'établissement à ce sujet. Quand comptez-vous fournir ces directives ?

Il est recommandé que cette question de principe soit tranchée dans les plus brefs délais, y compris en ce qui a trait au rôle du médecin amené à prescrire des médicaments au cours d'une prise d'otages.

La deuxième question portait sur l'accessibilité des dispositifs de surveillance audiovisuels.

M. Stewart se demandait pourquoi la commission d'enquête concluait que l'on aurait pu faire un meilleur usage de l'aide technique extérieure, mais ne formulait aucune recommandation visant à assurer le recours immédiat à une telle assistance à l'avenir.

résultats de nos enquêtes indiquaient clairement que les dépenses constituaient un important critère de décision - dans certains cas, il s'agissait du seul critère de décision - et que le Service avait demandé à l'occasion au détenu et à sa famille de supporter certaines dépenses.

Je terminais mon rapport annuel de 1988-1989 sur la question en disant qu'une telle pratique ne pouvait être raisonnablement justifiée, car elle créait des situations alimentant d'inévitables conflits d'intérêt et limitait l'accès à ce type de permissions de sortir en raison de critères fondés sur la distance à parcourir et la situation financière personnelle des intéressés. En janvier 1990, le Service a publié une nouvelle Directive dans laquelle les dépenses ne sont plus considérées comme un facteur de décision. En voici un extrait :

Les permissions de sortir avec surveillance pour raisons humaines doivent être autorisées (...) à condition qu'aucune information importante, en matière de sécurité ou de gestion de cas, n'y soit défavorable.

Dans mon rapport annuel de 1990-1991, je reconnaissais que cette politique était un pas dans la bonne direction et soulignais qu'il était essentiel que le Service prenne des mesures propres à garantir qu'elle serait à la fois comprise et mise en oeuvre dans les établissements, car les décisions en cette matière doivent être prises dans des délais opportuns. Dans mon rapport de l'an dernier, j'ajoutais que les erreurs commises ne peuvent être réparées - il est en effet impossible de reporter à une date ultérieure un décès ou des obsèques - et que nous continuons à recevoir des plaintes de détenus à qui l'on avait refusé une permission de sortir pour des raisons non conformes à la politique. Encore cette année, j'ai reçu des plaintes de détenus à qui l'on avait refusé une permission de sortir pour des raisons non conformes à la politique. J'ai examiné la question, ainsi que chacune de ces plaintes, avec le nouveau Commissaire et je recommande que celui-ci fournisse, dans une note de service adressée à tous les directeurs d'établissement, des directives plus claires concernant l'application de cette politique, et que cette note de service soit incorporée dans le guide sur les droits et privilèges des détenus qui devrait être publié cet été.

b) Situation en mars 1994

Le Commissaire, préoccupé par cette situation, a pris des mesures pour préciser la politique du Service dans ce domaine en donnant aux directeurs d'établissement des lignes directrices sur l'autorisation des permissions de sortir avec surveillance pour des raisons humaines. Les lignes directrices sont claires et correspondent dans une mesure raisonnable à la politique du Service. Nous continuons de recevoir des plaintes au sujet de décisions non conformes à la politique, mais j'estime cette situation inévitable et considère que la question est réglée. Si nous jugeons, après enquête, qu'une décision n'est pas conforme à la politique, j'en saisis directement le Commissaire, étant donné l'importance de ce genre de décision pour le détenu et les membres de sa famille ainsi que la nécessité de rendre rapidement une décision.

c) Situation actuelle

L'an dernier, j'ai reconnu que le Commissaire avait pris des mesures dans ce domaine en donnant des lignes directrices qui renforçaient la politique du Service sur les permissions de sortir sous surveillance pour des raisons humaines. J'ajoutais que les lignes directrices étaient « claires et correspondaient dans une mesure raisonnable à la politique du Service », mais j'estimais inévitables les décisions non conformes à la politique et aux lignes directrices. Je disais, pour conclure, que je saisisrais directement le Commissaire des décisions non conformes à la politique du Service. Pendant l'année qui s'est écoulée, un certain nombre de permissions de sortir sous surveillance pour des raisons humaines ont été présentées au Commissaire pour examen. Malheureusement, les résultats de ces examens étaient généralement très lents à venir et témoignaient d'une attitude défensive et circonspecte.

taux de rémunération. Il s'agit d'une mesure provisoire en attendant l'adoption de la directive n° 730, Affectation aux programmes et rémunération des détenus.

Le nombre de détenus qui ne travaillent pas continue de s'accroître, en partie à cause de l'augmentation de la population carcérale et de celle du nombre de détenus qui veulent bénéficier de l'isolement protecteur et se retrouvent en isolement pour une longue période. Le nombre de détenus qui reçoivent encore 1,60 \$ par jour ne semble pas avoir changé depuis que le Service nous a fait parvenir sa réponse.

L'examen que nous avons fait des plaintes relatives à la paye et à l'emploi, qui ont connu une hausse importante pendant l'année, montre clairement que les détenus qui reçoivent 1,60 \$ par jour ne font pas régulièrement l'objet d'un examen visant à accroître, s'il y a lieu, le taux de leur rémunération.

Les responsables d'une région ont appris au Bureau que leur budget salarial des détenus ne leur permet pas de faire passer les détenus à un niveau supérieur à celui de 1,60 \$ même si ces derniers sont incapables de travailler pour des raisons indépendantes de leur volonté.

On peut dire que, même si le Service affirme comprendre qu'une indemnité de 1,60 \$ par jour est insuffisante, la situation reste la même que celle que j'ai décrite il y a trois ans.

Le recommandé sur ce point, et dans le cadre de la question générale de la rémunération, qu'une indemnité quotidienne minimale suffisante soit déterminée et que tous les détenus, sans distinction, reçoivent cette allocation quotidienne de base. Le recommandé en outre, vu les retards excessifs dans ce domaine, que des mesures soient prises immédiatement.

c) Situation actuelle

Dans mon rapport annuel, l'an dernier, alléguant l'entente qui existait sur le fait qu'une somme de 1,60 \$ par jour représente une allocation insuffisante, j'ai précisément recommandé ce qui suit :

Qu'une indemnité quotidienne minimale suffisante soit déterminée et que tous les détenus, sans distinction, reçoivent cette allocation quotidienne de base.

Il n'y a eu, de la part du Service, ni mesure ni commentaire relativement à cette recommandation.

Il semble même y avoir un recul de sa part par rapport à son engagement antérieur d'examiner le cas des détenus incapables de travailler pour des raisons indépendantes de leur volonté afin de porter leur taux de rémunération au-dessus du niveau de 1,60 \$ par jour.

Pour que le Service applique une politique de rémunération coordonnée et raisonnable, il doit examiner la question des détenus qui ne travaillent pas en même temps que la question de la rémunération des détenus.

10. CRITÈRES RÉGISSANT LES PERMISSIONS DE SORTIR AVEC SURVEILLANCE POUR DES RAISONS HUMAINES

a) 1992-1993

Comme je l'ai rappelé l'an dernier, nous avons signalé une première fois ce problème au commissaire du Service correctionnel en avril 1988 parce que nous avions reçu à l'époque plusieurs plaintes provenant de détenus à qui l'on avait refusé une permission de sortir avec surveillance pour assister aux obsèques d'un membre de leur famille. Les

J'ai ensuite appris, en décembre 1993, que le Service avait demandé aux détenus, conformément à l'article 74 de la Loi sur le système correctionnel et la mise en liberté sous condition, de se prononcer sur la directive révisée. Ces observations avaient été reçues au début d'août 1993 et le texte définitif de la directive et des lignes directrices devait être transmis au Comité de direction pour approbation en janvier 1994.

À la fin de l'année visée par le présent rapport (31 mars 1994), ni directive ni lignes directrices n'avaient été rendues publiques, mais le bruit courait qu'une directive du Commissaire pourrait être publiée à la fin de l'été de 1994.

L'examen de cette politique par le Service a commencé au début de 1990.

c) Situation actuelle

En mars 1995, le Commissaire a fait savoir que le texte définitif de sa politique et de ses lignes directrices sur les effets personnels des détenus lui avait été présenté pour signature. Bien que la politique et les lignes directrices révisées portent sur bon nombre des préoccupations initiales, il subsiste des difficultés liées aux contradictions en ce qui concerne les effets personnels autorisés, tout particulièrement en matière d'ordinateurs.

On m'a récemment fait savoir que le Service s'efforçait d'élaborer une politique sur l'accès par les détenus aux ordinateurs afin de rendre la pratique plus cohérente à l'échelle du pays. Depuis plus de deux ans, le Service examine la question des effets des détenus et des ordinateurs du point de vue de la sécurité. J'espère qu'une décision finale, assurant à la fois un accès raisonnable et une pratique cohérente, sera prise dans un proche avenir.

9. APPLICATION DE LA POLITIQUE DE RÉMUNÉRATION DES DÉTENUS AUX DÉTENUS SANS

a) 1992-1993

En mai 1991, le Service a rajusté sa politique de rémunération dans le but d'offrir une rémunération raisonnable aux détenus incapables de travailler pour des raisons indépendantes de leur volonté. La nouvelle politique précise que le directeur d'un établissement a le pouvoir de rajuster le taux de rémunération des détenus qui ne peuvent travailler en raison d'une maladie de longue durée ou à la suite d'un accident ou encore parce qu'il n'y a pas suffisamment de travail pour tous.

Comme je l'ai indiqué dans mon rapport annuel de l'an dernier, l'examen des plaintes que nous avons reçues à ce sujet a révélé non seulement que la politique n'était pas appliquée dans tous les établissements, mais encore que certains directeurs n'étaient même pas au courant des modifications apportées à cette politique.

En décembre 1992, l'administration centrale a clarifié cette question dans une note de service, et j'apprends par ailleurs qu'une directive du Commissaire révisée devrait être promulguée en avril 1993. À mon sens, le Service a trop tardé à voir à la mise en oeuvre de cette politique, compte tenu de la situation en matière de rémunération des détenus qui avait été dénoncée antérieurement.

b) Situation en mars 1994

Le Service a répondu, en décembre 1993, en ces termes :

[Traduction]

On sait depuis longtemps qu'une somme de 1,60 \$ (par jour) représente une allocation insuffisante pour des détenus incapables de travailler pour des raisons indépendantes de leur volonté. On a demandé aux directeurs d'établir régulièrement tous les cas et de se servir de leur pouvoir de rajuster, s'il y a lieu, le

En réponse, le Service a fait savoir qu'il avait demandé à sa Direction de la recherche d'effectuer une étude sur la fiabilité et l'application de l'Échelle de classement par niveau de sécurité, et la question de la cohérence ou de la corrélation entre la procédure d'examen expéditif et le classement de sécurité de chacun des détenus sera examinée.

Dans sa réponse, en mars 1995, au sujet du processus de transfèrement, le Commissaire fait observer que le SGD donne des informations permettant de suivre le processus de transfèrement des détenus, et notamment des informations sur des points comme le type de transfèrement (sollicité/non sollicité), la date de la demande, le motif, la décision, la date du transfèrement et le résultat des appels interjetés. La question qui se pose alors est la suivante : l'administration centrale dispose-t-elle de cette information, celle-ci est-elle mise en corrélation et analysée, et que révèle-t-elle?

Comme pour la préparation des cas, l'accès aux programmes, les griefs, la double occupation des cellules et les permissions de sortir, le Service doit, pour répondre aux préoccupations liées à ces questions, indiquer clairement et précisément ce qu'il a l'intention de faire, de quelle façon il entend le faire et à qui il incombe d'obtenir des résultats.

8. GESTION DES EFFETS PERSONNELS DES DÉTENUX

a) 1992-1993

Au début de 1990, le Service a entrepris de réviser sa politique relative à la gestion des effets personnels des détenus en vue d'établir des lignes directrices nationales en la matière.

En janvier 1991, en réponse aux questions que nous avons soulevées sur ce point, le Service nous a fait parvenir une copie du texte provisoire de sa politique et de ses lignes directrices sur lequel le personnel des régions était invité à se prononcer. Nous avons fait connaître notre point de vue au personnel de l'administration centrale à l'occasion d'une réunion tenue au mois d'avril suivant.

Dans mon rapport annuel de 1990-1991, j'ai formulé le vœu que cette nouvelle politique traite, entre autres, des points suivants :

- l'attribution des responsabilités quand les effets personnels d'un détenu qui partage sa cellule avec un autre sont perdus ou endommagés;
- le calcul de la valeur de remplacement au moment du règlement des réclamations des détenus;
- les contradictions en ce qui concerne les effets personnels autorisés, qui créent des situations où un détenu qui a acheté certains effets dans un établissement apprend, au moment de son transfèrement dans un autre établissement, qu'il n'y a pas droit.

Je terminais en disant : « J'ai été informé que la politique révisée et les lignes directrices nationales l'accompagnant devaient être approuvées en octobre 1991 ».

Je conclus mon rapport annuel de l'an dernier sur ce point en disant « Au moment de la rédaction du présent rapport (mai 1992), la politique promise se faisait toujours attendre. » Elle n'était toujours pas rendue publique au moment de la rédaction du présent rapport (au 31 mars 1993). J'ai appris que le texte provisoire d'une directive du Commissaire serait prêt en mai 1993.

b) Situation en mars 1994

Le Commissaire m'a fait savoir en août 1993 qu'une directive du Commissaire et des lignes directrices sur cette question seraient prêtes pour le mois d'octobre.

Au moment de l'examen du Vérificateur général, environ 900 détenus étaient logés dans des établissements d'un niveau de sécurité supérieur à la cote de sécurité qui leur avait été attribuée. Le manque d'information fiable et à jour sur cette situation, à l'administration centrale, constitue, selon le Vérificateur général, « un problème très grave ».

envisager de faire le reclassement des détenus plus d'une fois l'an et insister davantage pour que le reclassement selon le niveau de sécurité coïncide mieux avec d'autres mesures décisionnelles faisant appel à l'évaluation du risque comme le transfertement et la libération conditionnelle.

envisager d'ajouter d'autres facteurs à l'échelle afin d'obtenir une meilleure cohérence entre le système de classement des détenus selon le niveau de sécurité et les dispositions relatives à la procédure d'examen expéditif;

réviser dès que possible l'Échelle de classement par niveau de sécurité, en se servant des données les plus récentes, afin d'en assurer la validité continue;

Sur ce dernier point, le Vérificateur général a indiqué, dans son dernier rapport, que le Service correctionnel du Canada devrait :

Le Bureau a également remarqué que, du fait du surpeuplement, des transfèrements non sollicités vers des établissements provinciaux sont autorisés aux termes d'accords d'échange de services, les transfèrements inter-régionaux non sollicités à des fins de gestion de la population ont augmenté et un plus grand nombre de détenus sont logés dans des établissements dont le niveau de sécurité ne correspond pas au leur.

Pendant l'année qui vient de s'écouler, le Service a apporté, à la directive du Commissaire n° 540, de nouvelles modifications visant à habiliter davantage les établissements à autoriser les transfèrements, processus que, dans des rapports annuels précédents, j'avais jugé négatif sur le plan à la fois de l'efficacité et de l'objectivité.

Dans sa réponse d'octobre 1994, le Commissaire fait savoir que la qualité des données introduites dans le SGD fait problème... et que l'on s'attend à pouvoir fournir des renseignements détaillés sur les transfèrements en 1995.

Dans le rapport annuel de l'an dernier, je disais, en conclusion, que les « enquêtes menées par le Bureau sur les plaintes des détenus relatives aux transfèrements n'ont guère révélé d'indices d'un contrôle efficace de la qualité, et les demandes précises que nous avons adressées aux régions et aux établissements au sujet de leurs mesures de contrôle du processus n'ont permis d'obtenir que des réponses partielles ».

En 1991, on nous a informés que les régions avaient donné suite aux recommandations du rapport de vérification de 1989. On nous a dit en 1992 que la version 2 du SGD permettrait de contrôler efficacement les transfèrements de détenus à l'échelle nationale et, de nouveau en 1993, que les transfèrements étaient contrôlés au niveau de l'établissement. Trois ans de faux espoirs.

- a) le système permette de procéder à l'examen objectif des demandes de transfèrements et de rendre des décisions dans des délais raisonnables;
- b) l'examen des appels porte non seulement sur la décision prise, mais aussi sur l'impartialité du processus de prise de cette décision;
- c) un résumé de l'examen des appels de décisions de transfèrements soit présenté dans un rapport trimestriel.

b) Situation en mars 1994

La décision de transférer un détenu et le processus décisionnel représentent, comme par les années passées, la catégorie dans laquelle les plaintes reçues par le Bureau sont les plus nombreuses; elles sont passées, en l'espace d'un an, de 719 à 927.

Le surpeuplement a occasionné des retards excessifs à la fois dans le traitement des demandes de transfèrement et dans le processus décisionnel. La politique adoptée par le Service et consistant à faire passer, d'un point central (administration régionale) au directeur de chaque établissement, la prise de décision sur les transfèrements intra-régionaux sollicités a encore accru ces retards et a également suscité d'importantes incohérences quant aux renseignements fournis aux détenus dans les cas où un transfèrement est refusé. Le processus d'appel au palier national (Commissaire) est, comme nous l'avons mentionné précédemment, fondamentalement dysfonctionnel. Les retards qu'accuse le processus de décision et de mise en oeuvre en ce qui concerne les transfèrements intra-régionaux et inter-régionaux continuent de s'accroître.

Dans toutes les régions, les centres de réception pratiquent la double occupation des cellules, et le placement des détenus de ces unités dans les établissements à la suite du processus de réception accuse souvent des retards, par suite de l'état de surpeuplement systémique, ce qui a pour effet de retarder l'accès du détenu aux programmes qui lui sont nécessaires. Les détenus de la population générale transférés d'un établissement à l'autre, soit «latéralement» soit à un niveau de sécurité inférieur, pour qu'ils puissent participer à des programmes disputent à ceux des centres de réception des cellules de moins en moins nombreuses, et leurs transfèrements ont également été, dans nombre de cas, excessivement retardés. Outre ce qui précède, le surpeuplement a limité la possibilité, pour le Service, de transférer des détenus qui souhaitent bénéficier de l'isolement protecteur et c'est ainsi qu'un plus grand nombre de ces détenus sont mis à deux par cellule dans des unités d'isolement pour de longues périodes.

Le Commissaire m'a de nouveau informé en décembre 1993 que les régions ont mis en place des mécanismes de contrôle pour se conformer aux conclusions de la vérification interne effectuée en 1989, et que la mise en service de la version 2 du Système de gestion des détenus permettra de contrôler efficacement les transfèrements au niveau national. Selon la vérification de 1989, il fallait établir un mécanisme plus efficace de contrôle de la qualité aux niveaux régional et national pour s'assurer que les transfèrements sont conformes aux méthodes établies et respectent les délais en matière de décision. Les enquêtes menées par le Bureau sur les plaintes des détenus relatives aux transfèrements n'ont guère révélé d'indices d'un contrôle efficace de la qualité, et les demandes précises que nous avons adressées aux régions afin de connaître les résultats de leurs mesures de contrôle du processus n'ont permis d'obtenir que des réponses partielles. Le contrôle du processus de transfèrement au niveau national est encore retardé en attendant la mise en place de la version 2 du Système de gestion des détenus.

c) Situation actuelle

Les décisions de transfèrement et le processus décisionnel pertinent représentent encore la catégorie de plaintes la plus importante. L'équipe chargée par le Service en 1989 de faire une vérification interne a recommandé la mise en place aux paliers régional et national d'un mécanisme efficace de contrôle de la qualité qui permette de s'assurer que les procédures et les délais prescrits en matière de transfèrements sont respectés.

Au cours des cinq dernières années, le Bureau a beaucoup parlé des insuffisances du processus de transfèrement et a présenté nombre de recommandations à l'appui des résultats de la vérification de façon que :

Il faut reconnaître que le Service ne possède pas de base de données fiables lui permettant de mesurer ses résultats actuels dans ce secteur. C'est pourquoi, avant d'entreprendre une « évaluation » du programme, le Service doit définir clairement ce que signifie l'évaluation, quelle méthode il faut employer et quel but poursuivre.

7. TRANSFÈREMENTS

a) 1992-1993

Ainsi que je l'ai mentionné dans mes derniers rapports, les décisions relatives aux transfèrements peuvent être les plus importantes décisions prises par le Service correctionnel du Canada pendant l'incarcération d'un détenu. Qu'elles visent un premier placement, un transfèrement non sollicité par le détenu dans un établissement à sécurité plus élevée ou un transfèrement sollicité par le détenu, ces décisions influent non seulement sur l'accès immédiat de l'intéressé aux programmes et aux privilèges, mais aussi sur ses chances d'être considéré pour une mise en liberté sous condition. Au cours d'une année donnée, il y a très peu de détenus dans les pénitenciers fédéraux qui ne sont pas touchés par une décision de transfèrement. Il n'est donc pas étonnant que les décisions de transfèrement et le processus de prise de ces décisions représentent, encore cette année, la catégorie dans laquelle les plaintes adressées à notre Bureau ont été les plus nombreuses.

En 1989, le Service a procédé à une vérification interne de son processus de transfèrement non sollicité par le détenu. L'équipe de vérification a fait deux observations corroborant les préoccupations que nous avions exprimées antérieurement. En premier lieu, elle a souligné la nécessité de mieux informer tant le personnel que les détenus au sujet des recours prévus concernant les décisions relatives à ce type de transfèrement. En second lieu, elle a recommandé la mise en place d'un mécanisme plus efficace de contrôle de la qualité aux paliers régional et national qui permette de s'assurer que les procédures et les délais prescrits en matière de transfèrements sont respectés.

Dans mon rapport annuel de 1990-1991, je demandais que le Service donne suite à la recommandation de l'équipe de vérification interne concernant la mise en place d'un mécanisme efficace de contrôle de la qualité. Je recommandais par ailleurs que le Service correctionnel, dans le cadre de sa procédure de règlement des griefs, s'assure :

- a) que le système est en mesure de procéder à l'examen objectif des demandes d'appel et de rendre une décision dans des délais raisonnables;
- b) que l'examen d'une demande d'appel porte non seulement sur la décision prise, mais aussi sur l'impartialité du processus de prise de cette décision;
- c) qu'un résumé de l'examen des appels de décisions de transfèrement soit présenté dans un rapport trimestriel.

En mars 1992, on m'a informé que le Service n'appuyait pas ma recommandation et entendait plutôt voir au règlement des questions associées au processus de transfèrement après la mise en place du Système de gestion des détenus prévus pour l'automne de 1992. J'apprends maintenant que l'administration centrale sera en mesure de contrôler directement les transfèrements de détenus après la mise en service du nouveau Système de gestion des détenus, d'ici à la fin de l'année civile 1993.

La encore, comme pour la procédure de règlement des griefs, la préparation des cas, la double occupation des cellules et les permissions de sortir, le Service n'a pas pris les mesures raisonnables et opportunes qui s'imposent pour remédier à un problème de longue date, en partie parce qu'il attend toujours la mise en place d'un système automatisé de gestion des détenus. On ne peut plus se permettre d'attendre l'implantation d'un système qui est constamment remise à plus tard pour prendre les mesures correctives qui s'imposent. Les hauts responsables ne peuvent plus se permettre d'invoquer les insuffisances de ce système comme excuse pour ne pas agir.

J'estime qu'il s'agit là d'un programme important qui contribue directement à la réinsertion sociale des détenus et qui a une incidence certaine sur la capacité du Service de préparer les cas dans les délais convenus en prévision de la prise de décision relative à la mise en liberté sous condition. Il y a beaucoup trop longtemps que ce programme ne reçoit pas toute l'attention qu'il mérite.

b) Situation en mars 1994

Le Commissaire m'avait fait savoir en août 1993, en réponse au rapport de l'an dernier, que le Service effectuait une étude sur les conséquences de la *Loi sur le système correctionnel et la mise en liberté sous condition* sur le programme de permissions de sortir.

On m'a informé par la suite, en décembre 1993, qu'il appartenait au directeur de chaque établissement de contrôler l'utilisation des permissions de sortir. Étant donné toutefois les préoccupations communes à l'Enquêteur correctionnel et au Service correctionnel du Canada, le Service allait procéder à des examens périodiques au niveau national ou régional. Bien entendu, si des informations provenant d'une source quelconque semblaient indiquer l'existence de problèmes particuliers concernant les permissions de sortir quelque part dans le système, les examens porteraient sur ces aspects.

En réponse à notre rappel sur la question des examens périodiques nationaux ou régionaux, le Bureau a appris en mars 1994 que le Service n'avait aucun projet immédiat relatif à de tels examens des programmes de permissions de sortir. On nous a également fait savoir à ce moment-là que chaque établissement allait continuer de contrôler et d'analyser les données pertinentes.

Nous avons demandé à chaque établissement les résultats de ses mesures de contrôle et d'analyse. Les réponses reçues ne sont guère de nature à révéler l'existence de ce qui pourrait ressembler à des mesures permanentes de ce genre. Le Bureau continue de recevoir un grand nombre de plaintes sur les permissions de sortir, mais il ressort, de nos discussions avec les détenus, que ceux-ci en viennent à accepter que diminuent les possibilités de bénéficier du programme. Pour constater cette diminution, il suffit d'examiner les données produites par le Service pour la période des Fêtes : de plus de 1 000 il y a une dizaine d'années, les permissions de sortir à l'occasion de Noël n'étaient plus que de quelque 800 de 1988 à 1992, et à Noël, l'an dernier, moins de 400 avaient été accordées.

D'un autre côté, selon le Commissaire, si l'on ne sait pas pourquoi les permissions de sortir pour le temps des Fêtes ont diminué en 1993-1994, dans l'ensemble, les permissions de sortir avec ou sans surveillance et les placements à l'extérieur ont augmenté d'environ 4 %. Nous avons demandé ces données et nous les examinerons avec soin parce que le programme de permissions de sortir a été et devrait continuer d'être un élément clef du processus de préparation des cas et de réinsertion.

c) Situation actuelle

Le Service n'a rien fait, en dépit de ses engagements antérieurs, pour contrôler et évaluer les raisons de la diminution des permissions de sortir. Je crains que l'inaction des cinq dernières années n'ait sérieusement mis en danger la viabilité de ce programme comme élément efficace du processus de mise en liberté sous condition.

Je sais bien que, récemment, le Commissaire a apparemment reconnu le fait que notre Bureau a soulevé des questions légitimes au sujet des baisses enregistrées et qu'il s'est par la suite engagé à faire faire une évaluation du programme de permissions de sortir en 1995-1996, mais je n'en suis pas moins conscient des insuffisances du Service dans ce domaine.

Le Service correctionnel du Canada devrait entreprendre une analyse complète dans chaque établissement afin de vérifier le taux de permissions de sortir avec surveillance et sans surveillance accordées au cours des cinq dernières années, ainsi que toute diminution dans le taux et les raisons qui la motivent. De plus, le SCC devrait élaborer une base de données complète permettant de relever les écarts dans les taux d'octroi de permissions de sortir et d'établir un cadre permettant d'analyser les renseignements recueillis dans chaque établissement, comme le profil de la population, le moment de la peine où les permissions de sortir sont accordées, et les échecs et les réussites des permissions de sortir.

Peu après, en avril 1992, le Service correctionnel nous informait qu'il n'avait pas l'intention de consacrer plus de temps à l'examen des données antérieures sur les permissions de sortir, et qu'il ne prévoyait pas incorporer ce genre de données dans les énoncés de ses résultats. Il est clair que le Service n'entendait pas donner suite à la recommandation contenue dans le rapport.

On nous a également informés en avril 1992 que le Service correctionnel avait donné aux régions l'ordre de contrôler les écarts enregistrés dans les taux d'octroi de permissions de sortir et de prendre les mesures correctives nécessaires. Comme nous recevions toujours des plaintes à ce sujet et que, d'après nos constatations, le nombre de permissions de sortir continuait de diminuer, nous avons demandé à voir les résultats des contrôles effectués dans les régions et une description des mesures correctives prises à cet égard. En décembre 1992, on nous a fait savoir que les régions ne considéraient pas le contrôle de ce programme comme une priorité.

J'apprends aujourd'hui qu'une fois que le système amélioré de gestion des détenus sera mis en place, d'ici à la fin de cette année civile, le Service disposera de données plus complètes sur le programme des permissions de sortir dans chaque établissement. Le Service a alors l'intention d'entreprendre une analyse complète à l'échelle du système de son programme de permissions de sortir.

Pour résumer l'état de la question :

- a) Le Service n'a pas donné suite à la recommandation formulée dans le *Rapport du groupe chargé d'examiner le programme des permissions de sortir pour les détenus dans les pénitenciers* (Pépino) publié en mars 1992 en vue d'une analyse dans chaque établissement;
- b) Les régions n'ont pas procédé au contrôle des écarts dans les taux d'octroi des permissions de sortir prescrit par le Service au début de 1992;
- c) Le Service n'a pas élaboré une base de données complète permettant de relever les écarts dans les taux d'octroi des permissions de sortir (recommandation du rapport Pépino);
- d) Le Service attend l'implantation du système amélioré de gestion des détenus pour effectuer une analyse complète, à l'échelle du système, du programme de permissions de sortir.

Je crois que, depuis deux ans, le Service cherche à brouiller les pistes au sujet de cette question. Dans certains établissements, les permissions de sortir ont diminué de moitié entre 1987 et 1992, et l'écart entre les taux d'octroi d'une région à l'autre est dans certains cas de cinq à un. En mettant les choses au mieux, le Service ne peut que faire des conjectures sur les raisons de ces baisses et de cet écart.

La Loi sur le système correctionnel et la mise en liberté sous condition a changé les règles du jeu en matière de permissions de sortir. Tant qu'il ne disposera pas d'une solide base de données chronologiques et qu'il n'aura pas cerné les variables influant sur le fonctionnement du programme, le Service ne sera pas capable de bien évaluer les répercussions des changements apportés par la Loi au programme des permissions de sortir.

En réponse à mes préoccupations particulières sur l'aspect inhumain de la double occupation des cellules d'isolement, le Service a déclaré en décembre 1993 que le SCC s'efforçait d'éviter la double occupation dans le secteur d'isolement et que si l'Enquêteur correctionnel révélait des cas précis où cette situation existe, le Service prendrait rapidement des mesures pour corriger la situation. Non seulement ai-je indiqué des cas précis, mais l'examen des rapports mêmes du Service permet de constater l'existence, dans quatorze établissements à sécurité maximale et moyenne, d'une double occupation des cellules permanente dans les unités d'isolement préventif et d'isolement disciplinaire.

c) Situation actuelle

On compte actuellement quelque 5 000 détenus sous responsabilité fédérale qui doivent partager des cellules construites à l'origine pour loger un seul détenu.

Je suis encouragé par le fait que le Commissaire ait récemment déclaré que le Service reconnaît la nécessité de comprendre dans la mesure du possible les facteurs qui contribuent à la croissance de la population. Je suis toutefois un peu troublé par le commentaire selon lequel l'expérience montrerait qu'une analyse exhaustive est beaucoup plus difficile à effectuer que ne le laisse entendre l'Enquêteur correctionnel.

Je n'ai jamais laissé entendre qu'il était facile de comprendre ou d'analyser ces facteurs. J'avais simplement fait observer que les données dont dispose le Service ou, du moins, celles qui sont fournies à notre Bureau se prêtent difficilement à une analyse valable des causes précises de la forte hausse constatée. La première étape pour être en mesure de comprendre autant que possible les facteurs qui contribuent à la croissance de la population a été exposée en détail, plus haut, dans les observations sur la préparation des cas et l'accès aux programmes.

Sur la question de la double occupation des cellules, qui est manifestement liée à la très forte croissance de la population et, plus précisément, sur la question de la double occupation dans le secteur d'isolement, le Service m'a récemment fait savoir qu'il ne tenait « malheureusement » plus cette information. Ce fait soulève de sérieux doutes sur la préoccupation dont le Service fait état depuis longtemps à propos de la pratique de la double occupation dans les cellules situées à l'extérieur des aires réservées à la population carcérale générale et sur son engagement à effectuer une surveillance suffisante pour en réduire le plus possible les effets négatifs.

Le Service, à l'échelon national, ne semble pas prêter attention à cette question. J'estime donc nécessaire de répéter une chose évidente : **il est inhumain de mettre deux personnes dans une cellule d'isolement, conçue pour une seule, pour une période pouvant atteindre 23 heures sur 24, des mois durant.** Le maintien de cette pratique, sans contrôle, est contraire non seulement aux règles élémentaires du respect de la personne, mais aussi aux conventions internationales.

6. PROGRAMME DE PERMISSIONS DE SORTIR

a) 1992-1993

Comme nous l'avons signalé l'an passé, les problèmes liés à ce programme ont été portés à l'attention du Service correctionnel du Canada en juin 1989, et j'en ai exposé le détail dans mon rapport de 1990-1991. En principe, le Service correctionnel s'était alors engagé à mener dans chaque établissement une analyse complète de la situation dans le but de déterminer où se produisaient les baisses enregistrées. Il nous communiquait toutefois en mai 1991 ses chiffres sur les permissions de sortir accordées en 1990, selon lesquels le nombre de ces permissions avait augmenté par rapport à l'année précédente, puis nous faisait savoir, sans fournir les résultats de l'analyse complète de la situation dans chaque établissement prévue au départ, que la situation ne semblait plus constituer un problème et que la question était considérée comme réglée. En mars 1992, le *Rapport du groupe chargé d'examiner le programme de permissions de sortir pour les détenus dans les pénitenciers* (Pepino) était rendu public; il contenait notamment la recommandation suivante :

Pour résumer l'état de la question :

- il n'existe pas de système de suivi permettant d'identifier les détenus qui partagent des cellules à l'extérieur des aires réservées à la population carcérale générale;
- la situation de double occupation des cellules n'a pas fait l'objet d'examen opérationnels ni de vérifications internes;
- les chiffres fournis par les régions sur la double occupation des cellules sont incohérents et parfois inexacts;
- le rapport national récapitulatif publié chaque mois reflète les incohérences et les inexactitudes des rapports régionaux;
- le rapport national récapitulatif ne contient que des chiffres, qui ne semblent pas avoir été examinés ni interprétés;
- le nombre de détenus partageant une cellule a doublé depuis 1990, date à laquelle le Service s'est engagé à en réduire le nombre « en préparant les détenus à être libérés sous condition dans les délais prévus ».

Aujourd'hui, plus de 2 000 détenus des pénitenciers sont à deux, parfois même à trois, par cellule, soit plus de 20 % de la population dite à sécurité maximale ou moyenne. Rien n'indique de façon tangible que le Service a donné suite à ma recommandation en vue de « l'application de méthodes efficaces, opportunes et pratiques de contrôle de la situation ». Ce problème exige toujours l'attention immédiate du Service, puisque force est de constater qu'il ne disparaîtra pas de lui-même.

b) Situation en mars 1994

Le nombre de détenus qui partageaient une cellule a presque doublé entre janvier 1993 et janvier 1994, et il s'établit maintenant à plus de 3 000. Le Service correctionnel du Canada, comme je l'ai fait observer dans l'Introduction, n'affirme plus, comme il le faisait il y a deux ans, que la double occupation des cellules ne constitue pas une « mesure correctionnelle acceptable » et ne s'engage plus à « réduire le recours à une telle mesure en préparant les détenus à être libérés sous condition dans les délais prévus », mais il reconnaît maintenant la double occupation comme « pratique normale et acceptée ». Rien n'indique encore que le Service ait pris des mesures raisonnables en réponse à ma recommandation maintes fois reprise d'appliquer des méthodes efficaces, opportunes et pratiques de surveillance de la situation. En réalité, le Service possède actuellement moins de données fiables à ce sujet qu'il y a un an, parce qu'il a cessé, en septembre 1993, de produire chaque mois son rapport national, en vue de la mise en place de la version 2 du Système automatisé de gestion des détenus.

En mai 1993, le Comité de direction du Service a accepté de constituer un groupe de travail chargé d'examiner les options permettant à court et à long terme de réduire autant que possible la double occupation des cellules et de créer le milieu de vie le plus humain possible compte tenu des restrictions budgétaires. On m'a dit que les résultats obtenus par le groupe de travail seraient communiqués à mon Bureau. Je n'ai encore rien reçu.

Le Commissaire a présidé, en janvier 1994, un Groupe de discussion sur la politique en matière d'installations. Le plan d'action de ce groupe de discussion recommandait de procéder, dans un délai de trois mois, à une étude permettant de répondre à la question suivante : « Pourquoi les taux d'incarcération augmentent-ils ? » Il fallait examiner en particulier les points suivants : « admissions, libérations, taux de renonciation, taux de concordance de la CNLC, formalités administratives en retard, besoins en matière de placements à l'extérieur, le caractère opportun des programmes de mise en liberté et la pertinence de l'infrastructure communautaire ». J'ai hâte de recevoir un exemplaire du compte rendu de l'examen.

5. DOUBLE OCCUPATION DES CELLULES

a) 1992-1993

Depuis 1984, je parle dans mes rapports annuels des répercussions négatives de la double occupation des cellules sur les détenus et sur la gestion des établissements. Cette année-là, le nombre de détenus partageant une cellule s'élevait à environ 700, et un grand quotidien avait repris en manchette une déclaration du commissaire du Service correctionnel selon laquelle le problème de la surpopulation des pénitenciers serait éliminée avant juillet.

Dans mon rapport annuel de 1989-1990, le nombre de détenus partageant une cellule dans les pénitenciers étant passé à environ 1 000, je réitérais ma recommandation du 21 juin 1984 :

Que le Service correctionnel du Canada cesse immédiatement la pratique de la double occupation des cellules dans les aires d'isolement et d'isolement disciplinaire.

Je m'inquiétais à nouveau des répercussions de la double occupation des cellules à l'extérieur des aires réservées à la population carcérale générale en rappelant que les détenus qui sont dans ce cas ont un accès limité aux programmes et aux possibilités d'emploi, et une liberté de mouvement restreinte, ce qui les oblige à passer beaucoup de temps dans leur pavillon cellulaire.

Le Commissaire a répondu à mes observations en ces termes :

[Traduction]

...la double occupation des cellules ne constitue pas une mesure correctionnelle acceptable, et le Service continuera de tout mettre en oeuvre pour réduire le recours à une telle mesure en préparant les détenus à être libérés sous condition dans les délais prévus.

Dans mon rapport de 1990-1991, le nombre des détenus placés à deux par cellule étant passé à 1 200, dont 500 partageaient des cellules à l'extérieur des aires réservées à la population carcérale générale, je recommandais que le Service voie à surveiller en permanence, tant à l'échelle nationale qu'à l'échelle régionale, le nombre de détenus partageant une cellule à l'extérieur des aires réservées à la population carcérale générale, et la durée de cette double occupation.

Le Service correctionnel du Canada a rejeté cette recommandation, et le Commissaire nous a indiqué que le contrôle du nombre de détenus partageant une cellule se ferait «dans le cadre de l'examen opérationnel et du processus de vérification du Service».

Dans mon rapport de l'an dernier (1991-1992), le nombre des détenus partageant une cellule étant passé à 1 700, je recommandais à nouveau l'application de méthodes efficaces, opportunes et pratiques de contrôle de la situation. En avril 1992, j'ai appris que le Service était en train d'élaborer un système de suivi des détenus qui permette de déterminer ceux d'entre eux qui partagent une cellule pendant une portion de leur peine d'isolement. Ce système n'est toujours pas en place.

Nous avons demandé copie des rapports d'«examen opérationnel» et de «vérification interne» sur la double occupation des cellules. En janvier 1993, on nous a informés que cette question n'avait pas encore fait l'objet d'une vérification interne ou d'un examen opérationnel en bonne et due forme, que chaque région avait mis en place un mécanisme de contrôle de la double occupation des cellules et d'établissement de rapports à l'intention de l'administration centrale, et qu'un rapport national récapitulatif était produit une fois par mois.

Tant que des progrès considérables n'auront pas été accomplis dans ce domaine, les efforts que fait le Service pour régler le problème de surpeuplement continueront de porter sur les symptômes plutôt que sur les causes.

On m'a fait savoir plus tôt cette année que, « pour un certain nombre de raisons », il n'était pas possible d'avoir, à cet égard, de l'information sur les admissions, les mises en liberté, les renoncements, les reports et les taux de concordance. On m'a dit également que beaucoup plus de 1 000 détenus non violents se trouvaient encore dans les pénitenciers fédéraux après la date de leur admissibilité à la libération conditionnelle, mais on ne m'a fourni aucune donnée pour expliquer cette situation. Il faut que le Service cherche à remédier à cette absence d'information s'il veut être en mesure de régler la question. Je propose, comme point de départ, de donner suite à l'examen dont il est question ci-dessus, et qu'a ordonné le Commissaire en janvier 1994.

En janvier 1994, à la suite des travaux d'un Groupe de discussion sur la politique en matière d'installations, le Commissaire a demandé qu'une étude soit faite afin de déterminer pourquoi les taux d'incarcération augmentaient. Il fallait examiner en particulier les points suivants : « admissions, libérations, taux de renoncement, taux de concordance (Commission nationale des libérations conditionnelles), formalités administratives en retard, besoins en matière de placements à l'extérieur, caractère opportun des programmes de mise en liberté et caractère approprié de l'infrastructure communautaire. »

Le contenu actuel de la base de données du Service à ce sujet ne permet toujours pas de bien déterminer l'ampleur ni les causes précises des problèmes rencontrés, ni les mesures ou la stratégie que la direction doit mettre en oeuvre pour y apporter des solutions raisonnables.

Je suis d'accord avec le Commissaire lorsqu'il dit qu'il s'agit d'un problème complexe auquel on ne peut apporter une solution unique. Il s'agit également d'une question qui influe directement sur la capacité du Service de bien gérer la croissance de la population carcérale. C'est précisément à cause de la complexité et de l'importance du lien qui existe entre l'accès aux programmes, la préparation des cas et la mise en liberté en temps opportun que j'ai recommandé, il y a un certain nombre d'années, que le Service prenne des mesures immédiates pour bien comprendre l'étendue et les causes des problèmes qui expliquent les retards dans ces domaines.

c) Situation actuelle

Cet enchaînement des effets ne sera probablement pas interrompu tant que le Service n'aura pas accepté le principe voulant que la protection de la société est liée à la réinsertion sociale des détenus en temps opportun et qu'il n'agira pas en ce sens. Le maintien des conditions actuelles dans ce domaine entraînera la croissance de la population et aura de sérieuses conséquences sur le succès du processus actuel de décision au sein du système, sur l'efficacité et l'efficience des programmes existants dans les établissements et sur la capacité du Service d'assurer à la population carcérale un traitement juste et équitable.

Comme je l'ai fait observer dans l'Introduction, je ne crois pas que, à long terme, la solution aux retards dans la préparation des cas réside dans l'accroissement des ressources ou du nombre de places dans les établissements. Au fil des ans, le Service a fini par compter, du fait de la multiplicité des programmes dans les établissements, sur la période d'incarcération prolongée qui s'étend de la date d'admissibilité à la libération conditionnelle à celle de la libération d'office, pour l'application de ces programmes. Il semble que le personnel de la gestion des cas hésite à envisager la mise en liberté sous condition tant que les programmes, dont beaucoup pourraient être fournis sous surveillance dans la collectivité, n'ont pas été menés à bien. La croissance actuelle de la population, causée en partie par le fait que des délinquants restent dans les établissements pour terminer ce qu'ils ont commencé, a encore retardé l'accès à ces programmes, ce qui a pour effet d'augmenter la période d'incarcération et de faire croître la population.

Nous sommes bien placés pour savoir que peu de progrès ont été faits sur les questions relatives à la préparation des cas et à l'accès en temps voulu aux programmes de santé mentale. Les engagements pris par le Service l'an dernier et exposés en détail plus haut n'ont pas eu de suite, et le contenu actuel de la base d'information du Service dans ce domaine clef ne permet toujours pas de bien déterminer l'ampleur ni les causes des problèmes rencontrés, ni les mesures ou la stratégie que la direction doit mettre en oeuvre pour y apporter des solutions raisonnables.

Plus précisément, le Système automatisé de gestion des détenus en est resté au stade du développement; des rapports trimestriels sur les renoncations et les reports n'ont pas été produits au cours de l'année, mais le Service continue de soutenir que la préparation des cas en temps voulu constitue une priorité; l'élaboration et la mise en oeuvre d'un système de suivi conçu pour fournir régulièrement aux gestionnaires les informations concernant l'accessibilité et les effets des traitements leur permettant de prendre des décisions en matière de mise en liberté sous condition n'ont pas encore eu lieu; la fréquence des véritables contacts entre le personnel de la gestion des cas et les détenus va, selon les deux groupes, en diminuant; le taux de mise en liberté sous condition en temps voulu baisse et la population carcérale continue de s'accroître.

Le Service m'avait d'abord dit, en réaction au rapport annuel de l'an dernier, que «la mise en oeuvre, à l'échelle nationale, du processus d'évaluation initiale permettra de connaître systématiquement les détenus ayant besoin d'une intervention à caractère psychologique ou psychiatrique au début de l'exécution de leur peine... et permettrait au Service d'inscrire les détenus d'après des facteurs comme la période qu'il leur reste à purger avant l'admissibilité à la libération conditionnelle et les ressources totales affectées aux programmes... À cause de complications d'ordre technique liées à la deuxième version du SGD, il est difficile de prévoir quand l'évaluation initiale sera intégrée au SGD... l'évaluation ne peut être mise en oeuvre avant le début du nouvel exercice». J'ai plus tard appris que le Service avait prévu que le système d'évaluation pourrait être pleinement opérationnel dès septembre 1994.

Comme je l'ai fait remarquer dans le dernier rapport annuel, on m'a dit en 1991 qu'un «Système d'information de gestion des détenus conçu pour permettre aux gestionnaires de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés qui répondent à leurs besoins serait mis en place d'ici à l'automne 1992».

Pour que le Service atteigne son principal objectif général et qu'il gère efficacement la croissance de sa population, la préparation des cas et l'accès aux programmes en temps voulu sont essentiels. Plus du tiers de la peine d'un détenu, soit cette période qui sépare la date d'admissibilité à la semi-liberté de celle de la libération d'office, relève d'un pouvoir discrétionnaire. Or, pour réduire la période d'incarcération discrétionnaire, le Service doit commencer, dès le début de la peine, à préparer le cas en vue d'une mise en liberté sous condition et ainsi être en mesure de présenter le cas aux décideurs au moment le plus propice. Il n'y a guère d'avantages à présenter les cas à la toute fin de cette période.

Le Commissaire n'a pas manqué d'informer le Bureau de l'expansion rapide des programmes lancés par le SCC ces dernières années et de souligner que l'expansion des programmes de lutte contre la toxicomanie, d'acquisition des compétences psychosociales et de traitement des délinquants sexuels continue d'être une priorité. Il a ajouté que, à la fin de 1993-1994, le SCC pouvait traiter presque 1 800 délinquants sexuels par année, comparativement à moins de 200 en 1988. Tout cela est bien beau, mais il ne s'agit pas ici de la prolifération des programmes, mais plutôt de l'incapacité du Service à déterminer d'une façon raisonnable dans quelle mesure les détenus ont accès et peuvent participer en temps voulu aux programmes clés nécessaires, ce qui l'empêche d'assumer sa responsabilité d'accorder à la population carcérale un traitement juste et équitable.

Il semble que nous gardons beaucoup de délinquants en prison à grands frais pour qu'ils suivent des programmes qui pourraient être appliqués à l'extérieur. Il s'agit de savoir, dans le cas présent, non pas combien de détenus sont libérés, car ils finissent tous par l'être, mais à quel moment de leur peine ils le sont.

Je conclus mon rapport de l'an dernier sur cette question en disant :

Après avoir reconnu qu'il existait effectivement des problèmes, le Service avait pris certaines mesures dans le but de remédier à la situation. Les problèmes décélés n'ayant pas été réglés, il semble que le Service soit loin d'avoir atteint les objectifs qu'il s'est fixés. Nous croyons que le Service se doit de prendre immédiatement des mesures en vue de corriger une situation qui s'éternise.

Les objectifs se rapportant à cette question sont les suivants :

a) La mise en place d'un Système d'information de gestion des détenus d'ici à l'automne 1992 qui permette aux gestionnaires de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés qui répondent à leurs besoins. Le système actuel ne permet pas aux gestionnaires d'obtenir ces éléments d'information. On m'a informé que le nouveau système devrait être en place à l'automne 1993.

b) La production de rapports trimestriels sur les renoncations/reports et leurs raisons devait commencer en avril 1992. Ces rapports trimestriels devaient exposer les raisons du report de la présentation des cas en vue d'une mise en liberté sous condition de manière à ce que les cadres supérieurs puissent prendre rapidement les mesures correctives nécessaires. Le premier rapport trimestriel, publié en décembre 1992, n'indiquait pas les motifs des retards. Le deuxième et le troisième rapports trimestriels ont été publiés en janvier 1993; les motifs des retards y étaient classés en catégories générales, mais on n'y trouvait pas d'analyse ni de commentaires concernant les mesures éventuelles recommandées pour aider à réduire le nombre de ces retards.

Le dernier rapport trimestriel examiné fait état de 1 400 cas de renonciation ou de report entre octobre et décembre 1992.

c) L'élaboration et la mise en oeuvre d'un système de suivi fournissant aux gestionnaires les éléments d'information concernant les répercussions des programmes de traitement des délinquants sexuels sur la prise de décisions en matière de libération conditionnelle et les résultats des efforts déployés par le Service en vue de s'assurer que « les délinquants sexuels ont la possibilité de se faire évaluer et traiter avant les dates auxquelles ils sont admissibles à la libération conditionnelle ».

Il n'existe pas de système de suivi capable de fournir l'information requise dans ce domaine. Les délinquants sexuels participent rarement à des programmes de traitement avant les dates auxquelles ils deviennent admissibles à la libération conditionnelle et, dans bien des cas, leur traitement n'est pas terminé avant la date de leur libération d'office. Le rapport trimestriel sur les cas de renonciation et de report survenus entre octobre et décembre 1992 indique que près de 500 cas de retard étaient dus au fait que le détenu devait terminer ou poursuivre un traitement ou un programme d'apprentissage avant l'examen ou l'audition.

Le Service reconnaît qu'un problème se pose dans le domaine de la préparation des cas et de l'accès aux programmes de santé mentale. Le contenu actuel de la base d'information du Service dans ce domaine ne permet pas de bien déterminer l'ampleur ni les causes précises des problèmes rencontrés, ni les mesures ou la stratégie que la direction doit mettre en oeuvre pour y apporter des solutions raisonnables.

Nous avons appris qu'un système amélioré d'information sur les détenus devait entrer en service cet été. Tant que le Service ne sera pas capable de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés dont ils ont besoin, les politiques et les décisions de gestion qu'il adoptera dans ce domaine demeureront ponctuelles et incohérentes. Je recommande une fois de plus que le Service accorde une attention immédiate à cette question.

Entre-temps, le nombre de plaintes reçues par le Bureau et portant particulièrement sur des retards excessifs dans le traitement des griefs au cours de l'année est passé de 165 à 258. Le nombre de détenus qui s'adressent au Bureau avant de chercher à résoudre leurs préoccupations par le système de règlement des griefs a doublé. La confiance dans la possibilité d'obtenir rapidement, grâce à cette procédure, une réponse satisfaisante aux préoccupations a sérieusement diminué. La procédure, à laquelle j'ai reproché l'an dernier de ne pas satisfaire à l'exigence, qui est exprimée dans la *Loi sur le système correctionnel et la mise en liberté sous condition*, d'être «une procédure de règlement juste et expéditif des griefs des délinquants», s'est enlisée au palier national. À l'heure actuelle, les détenus doivent attendre de six à huit mois avant d'obtenir une réponse à ce palier, alors que, selon la politique, le délai devrait être de dix jours ouvrables. Le Commissaire m'a toutefois assuré qu'il a l'intention de trouver un moyen de réduire les retards.

c) Situation actuelle

En dépit des examens internes dont la procédure de règlement des griefs fait l'objet depuis des années et malgré les engagements pris à cet égard dans le passé, on ne voit guère plus d'indices de l'efficacité de sa gestion.

Le processus d'examen lancé en décembre 1993 en vue de recommandations précises à la haute direction du Service sur une nouvelle procédure n'a pas encore donné lieu à des changements dans la politique ou les modalités.

Le système automatisé d'établissement de rapports n'est pas encore en service, et le processus continue de s'appliquer sans qu'il soit possible d'obtenir des données pertinentes sur son fonctionnement ni de fournir aux cadres supérieurs l'information requise pour déceler les incohérences dans l'interprétation et l'application des lignes de conduite du Service.

Le Commissaire a récemment déclaré que le nombre moyen de jours qu'il faut pour répondre à un grief au troisième palier est maintenant de 50 à 60 jours, et non plus de 100 à 200 jours. Selon la politique, il faut répondre, à ce niveau, dans un délai de 10 jours ouvrables. En mars 1993, on m'a dit qu'il fallait, pour les griefs présentés au troisième palier, compter en moyenne 47 jours civils. En l'absence d'un système permanent d'établissement de rapports, il est très difficile de savoir avec exactitude si des progrès ont été accomplis dans ce domaine.

Le système ne peut pas être bien géré si l'on ne dispose pas d'une information fiable sur son fonctionnement. Avant même d'apporter des changements dans les politiques ou les modalités, la première étape consiste à mettre sur pied une base de données à l'intention de la direction afin qu'elle puisse évaluer dans quelle mesure la procédure actuelle permet d'atteindre les objectifs fixés.

4. PRÉPARATION DES CAS ET ACCÈS AUX PROGRAMMES DE SANTÉ MENTALE

a) 1992-1993

J'ai soulevé cette question dans mon rapport de 1988-1989 en insistant sur le fait que le Service a de plus en plus de difficulté à préparer les cas correctement et dans les délais convenus en prévision de la prise de décision concernant la mise en liberté sous condition. Selon les résultats de notre examen, il était manifeste à l'époque que bon nombre des retards constatés étaient directement liés à l'incapacité du Service de voir à l'évaluation psychiatrique d'un détenu et à lui fournir les traitements requis avant les dates d'audiences de libération conditionnelle.

En 1990, j'ai fait observer que la situation avait des répercussions importantes sur la viabilité du processus décisionnel du système, sur l'efficacité de ses programmes et sur la capacité du Service d'accorder un traitement équitable aux détenus.

une échelle plus large en introduisant un système automatisé d'établissement de rapports qui permettrait de cerner et d'analyser les insuffisances éventuelles de la procédure de règlement des griefs. Ce système, qui devait être introduit avant le 1^{er} juin 1992, permettrait au Service correctionnel de déceler les incohérences dans l'interprétation des lignes de conduite.

Lors d'une réunion avec le Commissaire, j'ai appris que l'entrée en service du système était prévue pour l'été 1993. En dépit des examens internes dont fait l'objet depuis des années la procédure de règlement des griefs et malgré les engagements pris à cet égard dans le passé, rien n'indique, à l'échelle nationale, que le système est géré d'une manière efficace ni que les responsables concernés sont déterminés à en assurer le bon fonctionnement. Les délais de traitement des demandes prescrits par la politique sont toujours loin d'être respectés; et, dans bien des cas, les plaintes ne sont pas examinées avec tout le soin et l'objectivité nécessaires. Le système automatisé d'établissement de rapports n'est pas encore en service, et la procédure suit son chemin sans qu'il soit possible d'obtenir des données pertinentes sur son fonctionnement ni de fournir aux cadres supérieurs l'information requise pour déceler les incohérences associées à l'interprétation et à l'application des lignes de conduite du Service.

En vertu de la *Loi sur le système correctionnel et la mise en liberté sous condition*, le Service doit établir «une procédure de règlement juste et expéditif des griefs des délinquants». La procédure actuelle ne satisfait pas à cette exigence.

La procédure n'a rien d'expéditif, les étapes du traitement des griefs prenant jusqu'à six mois. On ne peut affirmer non plus qu'elle mène à un règlement juste des griefs; il s'agit plutôt d'une épreuve de force dont on sort gagnant ou perdant, la partie étant très inégale pour le détenu puisqu'il s'agit d'une épreuve de force dont on sort gagnant ou la procédure avance.

En plus de la fonction première qui lui est attribuée aux termes de la Loi, la procédure de règlement des griefs devrait être considérée par le Service comme un précieux outil de gestion permettant de cerner des problèmes précis et d'en explorer les solutions possibles; tel n'est pas encore le cas. Les établissements et les régions ne se conforment pas à la politique du Service qui demande que des rapports mensuels sur les griefs soient présentés à l'administration centrale, et rien n'indique que la procédure fasse l'objet d'un contrôle ni d'une analyse à l'échelle nationale.

Pour conclure sur ce sujet, j'aimerais réitérer les propos que j'ai tenus en 1989 : cette procédure ne sera plus efficace et plus crédible qu'à partir du moment où les hauts responsables du Service s'engageront à en assurer le bon fonctionnement.

En guise de premier pas dans cette direction, je recommande que le Service fasse une vérification approfondie, à l'échelle nationale, du fonctionnement de la procédure actuelle, non seulement pour s'assurer que les exigences relatives aux délais de traitement et à l'établissement de rapports sont respectées, mais aussi pour déterminer si les examens requis sont effectués avec le soin et l'objectivité nécessaires et si le groupe visé juge la procédure crédible.

b) Situation en mars 1994

La recommandation touchant une vérification approfondie, à l'échelle nationale, du fonctionnement de la procédure de règlement des griefs n'a pas été appliquée.

Le Service reconnaît que le système de recours actuel pose «certains problèmes» et il a lancé un processus d'examen à un niveau élevé en vue de recommandations relatives à un processus restructuré. Vu l'importance que le Bureau accorde au processus de règlement des griefs des détenus, j'ai accepté de participer à titre consultatif aux travaux du Comité directeur de l'examen des systèmes de recours. Je constate qu'il s'agit là du troisième examen majeur du processus en cinq ans, mais j'applaudis à cette initiative particulière et je suis impressionné par la détermination manifestée par ce groupe dans la recherche d'une solution efficace afin de remédier à la situation.

Lier l'augmentation, depuis longtemps nécessaire, des taux de rémunération des détenus aux difficultés économiques actuelles et au gel des salaires dans la fonction publique constitue une position difficile à défendre. Je ne peux que recommander le réexamen de cette question en vue de remédier à la dégradation de la situation financière des détenus.

c) Situation actuelle

Il n'y a pas eu de réexamen approfondi de cette question. Je suis tout à fait conscient des considérations relatives à « l'élaboration des politiques dans les années 90 » dont parle le Commissaire. Je reconnais également la légitimité des préoccupations soulevées par les détenus au sujet de l'érosion de leur situation financière depuis une dizaine d'années.

Ces préoccupations sont de deux ordres. Mentionnons d'abord les répercussions sur les opérations des établissements. Si la rémunération des activités autorisées n'est pas suffisante, il est évident que les détenus trouveront d'autres sources de financement pour répondre à leurs besoins quotidiens. Des taux de rémunération insuffisants favorisent et entretiennent une économie clandestine dans les établissements.

Une autre conséquence concerne la libération des détenus. Là encore, il est difficile de s'attendre à ce que des détenus qui n'ont pas une rémunération suffisante soient en mesure d'économiser assez en vue de leur libération. Il ne sert à rien de mettre en liberté des détenus qui n'ont pas l'argent nécessaire pour réussir leur réinsertion.

D'après les réponses qu'il donne sur cette question depuis une dizaine d'années, le Service reconnaît l'érosion de la situation financière des détenus, mais il n'a pas montré la volonté nécessaire pour y remédier. Il faut procéder immédiatement à un relèvement général de l'échelle de rémunération des détenus. Il faut en outre que le Service effectue un examen approfondi des répercussions de la rémunération des détenus dans le domaine des opérations des établissements et dans celui de la mise en liberté sous condition.

3. PROCÉDURE DE RÉGLEMENT DES GRIEFS

a) 1992-1993

Ce n'est pas d'hier que notre Bureau juge préoccupantes les modalités d'application de la procédure de règlement des griefs du Service correctionnel du Canada. Pour être efficace et crédible, tout mécanisme de redressement à paliers doit comporter à la fois un processus préliminaire favorisant la participation et permettant d'examiner en profondeur et objectivement les griefs, et un dernier palier où les responsables n'hésitent pas à prendre rapidement les décisions finales qui s'imposent. Comme je l'ai dit antérieurement, à mon avis, les difficultés que crée actuellement la procédure sont attribuables non pas tant à sa structure et à ses modalités d'application qu'à un certain manque d'engagement et de détermination chez les personnes chargées d'en assurer le bon fonctionnement.

Au sujet de la question de la volonté et du sens des responsabilités dont doivent faire preuve les responsables de la procédure, le Commissaire a commenté, en février 1990, l'obligation du Service de s'assurer que les détenus ont accès à un mécanisme de recours efficace en déclarant que la rapidité avec laquelle le Service donnera suite aux demandes de redressement sera perçue, à juste titre, comme un indicateur de l'importance qu'il accorde au règlement des plaintes des détenus.

Dans mon rapport de 1990-1991, je recommandais que les administrations, tant centrale que régionales, présentent des rapports trimestriels faisant état des décisions rendues, afin qu'il soit possible d'assurer une certaine uniformité dans l'interprétation des lignes de conduite du Service sur le règlement des griefs présentés par les détenus.

En mars 1992, on m'a informé que le Service n'appuyait pas la mise en place de mécanismes d'établissement de rapports distincts concernant des questions précises et qu'il avait l'intention de donner suite à cette recommandation à

2. RÉMUNÉRATION DES DÉTENUS

a) 1992-1993

J'ai soulevé la question de la rémunération des détenus dans mon rapport annuel de 1988-1989 et j'ai recommandé à l'époque que des mesures soient prises pour assurer le rajustement général des taux de rémunération afin d'atténuer l'érosion de la situation financière des détenus. J'ai ajouté que cette situation se répercutait non seulement sur le pouvoir d'achat des détenus à l'intérieur de l'établissement, mais aussi sur le solde de leur compte en banque au moment de leur mise en liberté.

Dans mon rapport de l'an dernier, je faisais observer que le nombre de plaintes à ce sujet avait augmenté, et que la situation constatée antérieurement s'était progressivement aggravée. Je conclus en recommandant à nouveau au Service d'accorder aux détenus, dans les plus brefs délais, un rajustement majeur de leur taux de rémunération.

À la suite d'une réunion avec le Commissaire, en avril l'an dernier, qui a porté sur la question de la rémunération des détenus, j'ai écrit à M. Ingstrup. Voici un extrait de la lettre :

[Traduction]

Comme vous le savez, j'en suis convaincu, beaucoup de détenus dépensent plus quotidiennement en produits du tabac qu'ils ne gagnent par jour en travaillant. Tant les détenus que le personnel nous ont signalé que cette situation aggrave sensiblement les tensions et les activités illicites dans les établissements.

On nous a également signalé que les détenus qui ont des dettes envers d'autres détenus sont plus nombreux, tout comme ceux qui demandent protection à cause de leurs dettes, et les pratiques illicites telles que la fabrication d'alcool, le trafic de drogue et les prêts usuraires se multiplient.

Lorsqu'on ne peut obtenir de l'argent de sources légitimes, on est forcé de recourir ou de prendre part à un marché noir bien moins légitime : c'est un fait économique reconnu. Je crains que, faute de remédier immédiatement à cette situation, on assistera à une aggravation du climat d'agitation qui règne dans les établissements où se font déjà sentir les tensions liées au surpeuplement. Par conséquent, je recommande que des mesures soient prises dans les plus brefs délais pour que les taux de rémunération des détenus reflètent le coût de la vie dans les établissements.

Pour la cinquième année consécutive, j'ai donc recommandé que des mesures soient prises immédiatement à ce sujet.

b) Situation en mars 1994

Le Service correctionnel du Canada a constamment et fermement appuyé l'idée d'une augmentation de salaire, et il a obtenu du Conseil du Trésor l'autorisation d'appliquer un nouveau système de rémunération touchant la plupart des détenus. Toutefois, en raison de la résistance que cette proposition a rencontrée dans la population, la décision a été prise, bien que le Service se soit montré réceptif sur cette question, de ne pas procéder à une augmentation au cours du présent exercice.

Il n'y a pas eu de rajustement appréciable de l'échelle de rémunération depuis une dizaine d'années. Le nombre de plaintes reçues par le Bureau au sujet de la rémunération et de l'emploi continue de s'accroître. Les problèmes qui se sont posés au niveau de l'établissement, outre la perte progressive du pouvoir d'achat des détenus et de leur capacité de faire des économies en vue de la libération, sont exposés en détail dans la lettre ci-dessus mentionnée à l'ex-commissaire du Service.

- l'examen approfondi et l'analyse de l'ensemble des programmes appliqués dans ces unités et ayant pour objet de répondre aux besoins constatés dans la population carcérale;

- l'élaboration d'un mandat précis pour le Comité national de révision afin d'assurer plus de cohérence dans le processus décisionnel et un meilleur contrôle des activités dans les unités spéciales de détention.

J'attends que l'administration centrale fasse part de ses observations sur le rapport et de ses plans d'action. Je recommande également, outre plus de cohérence dans les décisions, que le Service veille à ce que la composition du Comité national de révision reflète la nécessité de l'objectivité et de l'équité dans les décisions que prend ce comité. Tant que le Service n'aura pas vraiment agi en réponse à ces observations et à ces recommandations, le programme des unités spéciales de détention ne fera guère plus que de maintenir à grands frais les détenus dans leur isolement.

c) Situation actuelle

Les sujets de préoccupation qui ont fait l'objet de plaintes de la part de détenus en ce qui concerne les unités spéciales de détention tournent autour de deux domaines interreliés.

D'abord, la capacité des unités de fournir des occasions d'emploi et des programmes d'une manière raisonnable et en temps opportun afin de répondre aux besoins constatés dans la population carcérale. Ensuite, l'objectivité et l'équité avec lesquelles le Comité national de révision exerce ses fonctions à la fois comme organisme de décision dans des cas particuliers et comme organisme responsable du suivi et de l'analyse pour ce qui est du programme des unités spéciales de détention.

Pour répondre à ces préoccupations, le Service doit :

a) déterminer précisément et répertorier les besoins de la population des unités spéciales de détention et veiller à ce que les possibilités d'emploi et de participation à des programmes répondent bien aux besoins constatés;

b) expliciter la nécessité pour le Comité national de révision, dans l'exercice de ses responsabilités liées au suivi et à l'analyse des opérations des unités, d'examiner tout particulièrement l'efficacité des programmes par rapport aux objectifs définis;

c) veiller à ce que les résultats de ce suivi et de cette analyse soient exposés en détail dans le rapport annuel sur les unités spéciales de détention et à ce que le rapport soit produit sans retard;

d) établir un Comité national de révision auquel participe la direction nationale et qui a de façon manifeste le pouvoir et l'objectivité nécessaires pour exercer ses fonctions comme il convient et d'une manière équitable;

e) indiquer dans la politique l'obligation pour le Comité de révision de donner aux détenus l'occasion, dans le cadre du processus décisionnel, de s'entretenir avec lui.

Le Service s'est récemment engagé à réduire le nombre de détenus logés dans les unités spéciales de détention et il prévoit de centraliser ses opérations dans un établissement. Il apparaît donc que c'est le temps ou jamais d'agir dans les domaines indiqués ci-dessus.

L'année suivante, comme le Comité de révision n'avait pas encore publié ses conclusions, je réitérais dans mon rapport de 1990-1991 l'espoir que le Comité saurait déterminer objectivement non seulement si les opérations des unités spéciales sont conformes à la politique établie, mais aussi si ces opérations répondent effectivement aux objectifs convenus du programme.

Le Service a publié un rapport provisoire sur les unités spéciales de détention en octobre 1991 et un rapport final sur cette question en janvier 1992. La base de données sur laquelle était fondé ce rapport était incohérente et mal définie; le document ne contenait aucune analyse ni évaluation de la mesure dans laquelle le programme répondait aux besoins des détenus visés. Dans un résumé concernant le contenu de ce rapport, le Service indiquait que «comme le démontrent certaines des données statistiques présentées dans le Rapport, on doit s'entendre sur une méthode normalisée d'établissement de rapports pour que les analyses à venir soient plus instructives».

J'ai indiqué dans mon rapport de 1991-1992 que le premier rapport annuel sur les unités spéciales de détention était insatisfaisant, en ajoutant :

« Afin d'accroître la pertinence des analyses dans ce secteur, le Service a normalisé la méthode d'établissement de rapports ainsi que la méthode de collecte des données statistiques concernant la gestion des USD. J'ai été informé que le Service espère que le prochain rapport sera plus détaillé et de meilleure qualité.

Le second rapport annuel sur les unités spéciales de détention, qui porte sur la période allant d'avril 1991 à mars 1992, a été rendu public le 20 novembre 1992. Le Service a déclaré que «bien qu'il ne réponde pas encore à toutes les attentes de l'Enquêteur correctionnel, le second rapport annuel est nettement supérieur au premier».

La qualité du rapport est accessoire par rapport à la question fondamentale de la qualité du programme des unités spéciales de détention. Nous avons examiné ce programme, avec les sous-commisaires des régions du Québec et des Prairies, pour conclure qu'il ne fait que maintenir les détenus dans leur isolement. Ainsi, les programmes et les possibilités d'emploi sont limités et ont peu ou pas de rapport avec les besoins des détenus visés. Les déplacements des détenus, les contacts entre détenus ainsi que les contacts entre employés et détenus font toujours l'objet d'un contrôle excessif, en dépit des assouplissements proposés dans la nouvelle politique. Les services psychiatriques et psychologiques se réduisent généralement à des évaluations liées à la prise de décisions par le Comité national de révision des cas, et rien n'indique que des traitements et programmes réguliers répondant aux besoins définis sont offerts. Les exigences énoncées dans la politique touchant la collecte et l'analyse de données ne sont pas respectées, et le Comité ne s'acquiesce pas de ses responsabilités en matière de contrôle et de supervision des opérations des unités spéciales de détention.

Ce ne sont pas nos attentes qui comptent, mais plutôt les exigences de la politique établie par le Service correctionnel du Canada. En dépit des engagements pris antérieurement, le Service n'a toujours pas évalué objectivement les opérations des unités spéciales de détention, trois ans après l'adoption de sa nouvelle politique.

Lors d'une rencontre avec le Commissaire, j'ai été avisé du fait que le troisième rapport annuel sur les unités spéciales de détention serait publié sous peu; cette année encore, le Service espère que ce rapport sera de meilleure qualité. Le Commissaire a également indiqué que la gestion des unités spéciales de détention ferait l'objet d'une vérification interne dans le courant de l'année à venir.

b) Situation en mars 1994

En janvier 1994, le Service correctionnel du Canada a donné la version définitive de son rapport de vérification interne sur les unités spéciales de détention. Les observations qui y sont présentées consacrent, dans une large mesure, la légitimité des préoccupations soulevées par notre Bureau depuis trois ans. L'équipe de vérification a fait une série de recommandations où elle demande :

QUESTIONS FAISANT L'OBJET DE PLAINTES

La présente section expose en détail les principaux sujets de préoccupation qui ont été examinés avec le commissaire du Service au cours de l'année. Pour chacune des questions, j'ai partagé l'exposé en trois parties : la partie a) traite en détail de la question telle qu'elle a été présentée dans mon rapport annuel de 1992-1993; la partie b) présente la situation telle qu'elle a été exposée par le Bureau en mars 1994; la partie c) indique où l'on en est actuellement sur cette question.

Si j'ai choisi cette formule, et annexé au présent rapport notre document de travail et les observations du Commissaire, c'est pour deux raisons. D'abord, pour indiquer en détail l'évolution de ces questions déjà anciennes, tout en présentant honnêtement les observations et les engagements passés et actuels du Service. Ensuite, pour faire porter l'attention sur les sujets de préoccupation précis liés à ces questions dans l'espoir que des mesures utiles puissent être prises.

1. UNITÉS SPÉCIALES DE DÉTENTION

a) 1992-1993

Ces unités, dont le niveau de sécurité est le plus élevé au sein du Service, sont réservées aux détenus que le SCC a jugé trop dangereux pour être placés dans un établissement à sécurité maximale. Il existe deux unités spéciales de détention : l'une est située à Prince-Albert, en Saskatchewan, et l'autre à Sainte-Anne-des-Plaines, au Québec. Ces unités peuvent, à elles deux, accueillir 170 détenus et en héberger actuellement 120.

En mars 1990, le Service a modifié sa politique sur les unités spéciales pour y annoncer son intention d'élaborer des programmes spéciaux pour les détenus dangereux permettant d'évaluer leurs besoins et d'y répondre, et de créer un environnement humain à leur intention, de manière à faciliter leur intégration dans un établissement à sécurité maximale.

Dans mon rapport annuel de 1989-1990, j'ai longuement parlé de l'évolution de ces unités ainsi que des inquiétudes que nous inspirait tant le principe du placement de ces détenus dans des établissements distincts que la gestion des unités elles-mêmes. Je concluais en disant :

Bien que je continue de douter de l'utilité des unités spéciales de détention, je suis d'avis que la politique actuelle constitue un progrès encourageant, conformément au souhait du Commissaire de fournir aux détenus violents des traitements et des programmes appropriés, ainsi qu'un environnement humain. Je dois cependant rappeler qu'il y a beaucoup à faire entre l'élaboration d'une politique raisonnée et la mise en oeuvre d'un programme raisonnable. Il ne faut pas oublier qu'en 1979, l'énoncé de politique sur les unités spéciales de détention prévoyait l'établissement d'installations et l'élaboration de programmes destinés aux détenus considérés comme particulièrement dangereux, afin de favoriser leur réintégration dans la population carcérale des établissements à sécurité maximale.

Au cours de la présente décennie, le Service doit se donner pour but d'évaluer objectivement non seulement la conformité des opérations des unités à sa politique établie, mais aussi l'efficacité de ces opérations par rapport à l'objectif fixé. Le rapport annuel du Comité de révision national constituera la première étape de ce processus. J'attends avec impatience la publication de ce rapport. Je pourrai alors étudier, avec le Commissaire, les conclusions et les recommandations du Comité.

ACTIVITÉS

Sur le plan pratique, l'Enquêteur correctionnel a essentiellement pour fonction d'enquêter sur les plaintes individuelles des détenus et de recommander des solutions. Il lui incombe également d'examiner les lignes de conduite et les usages du Service qui ont un rapport avec l'objet des plaintes afin que l'on puisse cerner les problèmes systémiques et leur accorder toute l'attention voulue, et de faire des recommandations à ce sujet. J'ai joint à titre d'annexe B au présent rapport la partie 3 de la Loi sur le système correctionnel et la mise en liberté sous condition, qui expose en détail le mandat du Bureau.

Toutes les plaintes adressées à notre Bureau font l'objet d'un examen préliminaire visant à bien définir le problème. Une fois cette première étape franchie, s'il est établi que l'objet de la plainte ne relève pas de notre mandat, nous renseignons l'auteur de la plainte sur la façon de procéder pour obtenir satisfaction, et nous l'aidons au besoin dans ses démarches. Dans le cas contraire, nous remettons au plaignant un exposé des lignes de conduite et des pratiques du Service dans le domaine considéré. Si nous le jugeons nécessaire, nous organisons une entrevue au cours de laquelle le détenu est encouragé à avoir d'abord recours à la procédure interne de règlement des griefs administrée par le Service. Tout en favorisant le recours à cette procédure, nous n'en faisons pas une condition préalable à notre intervention. Si l'examen préliminaire a permis d'établir que le détenu n'aura pas recours ou qu'il ne peut raisonnablement avoir recours à cette procédure interne, ou que le Service s'occupe déjà de chercher une solution aux problèmes signalés dans la plainte, nous prenons les mesures que nous jugeons nécessaires pour nous assurer que la plainte reçoit toute l'attention voulue.

Le Bureau n'est ni le mandataire du Service correctionnel du Canada ni le défenseur de chaque détenu ou groupe d'intérêt qui formule une plainte. Il mène des enquêtes impartiales et procède à un examen attentif des décisions du Service et des motifs qui les justifient. À partir de ses conclusions, il peut soit approuver ces décisions, qu'il expliquera alors à l'auteur de la plainte, soit recommander des mesures correctrices si une injustice est décelée. Au cours de l'année, notre Bureau a reçu 6 800 plaintes, les enquêteurs ont passé 254 jours dans les pénitenciers fédéraux et effectué plus de 2 000 entrevues avec des détenus, et environ un millier avec le personnel des établissements.

Ces chiffres correspondent sensiblement à ceux de l'an dernier et, encore une fois, ils ont été atteints en dépit des compressions budgétaires.

Ce qui d'habitude fournit matière aux plaintes, ce sont encore les questions que l'on tarde à régler, lesquelles ont été exposées en détail dans les rapports antérieurs. Les tableaux donnent des renseignements sur les sujets des plaintes, leur règlement, les visites dans les établissements et les entrevues.

Outre le travail accompli en ce qui concerne les plaintes des délinquants, le Bureau doit, suivant l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition, examiner tous les rapports rédigés par le Service correctionnel du Canada à la suite d'enquêtes menées sur des incidents qui ont entraîné la mort d'un délinquant ou des blessures graves. Pendant l'année, le personnel a examiné plus de 130 rapports d'enquête.

L'année qui vient de se terminer a été très difficile et parfois pénible. Je profite de l'occasion pour remercier les membres de mon personnel de tous les efforts qu'ils ont déployés pour répondre aux préoccupations de ceux qui se trouvent incarcérés dans nos pénitenciers fédéraux.

TABLEAU H (suite)

PLAINTES RÉGLÉES OU AIDE FOURNIE - PAR CATÉGORIE

Classement de sécurité	1	1
Téléphone	13	16
Permission de sortir	8	12
Transfèvements		
a) décisions	20	42
b) non sollicités	2	18
Recours à la force	4	9
Visites	26	26
<hr/>		
Cas hors mandat		
Décisions de la Commission nationale des		
libérations conditionnelles	0	5
Questions relevant d'un tribunal de l'extérieur	0	2
Questions de compétence provinciale	0	1
Total	486	849

TABLEAU H

PLAINTES RÉGLÉES OU AIDE FOURNIE - PAR CATÉGORIE

Aide	Cas réglés	
45	22	a) placement
42	19	b) conditions
		Préparation des cas
64	16	a) libérations conditionnelles
8	7	b) permissions de sortir
54	36	c) transfèrement
58	63	Effets de cellule
27	8	Placement en cellule
		Réclamations
1	3	a) décisions
6	9	b) traitement
10	7	Correspondance
		Régime alimentaire
6	3	a) pour des raisons médicales
3	3	b) pour des raisons religieuses
		Discipline
1	0	a) décision d'un président de l'extérieur
1	0	b) décision relative à une infraction mineure
13	10	c) procédures
0	0	Discrimination
18	4	Emploi
		Questions financières
12	12	a) accès
12	28	b) rémunération
1	1	Nourriture
39	16	Procédure de règlement des griefs
		Services de santé
63	42	a) accès
38	9	b) décisions
		Information
9	12	a) consultation
20	8	b) correction
		Services de santé mentale
7	6	a) accès
0	0	b) programmes
		Autres
32	13	Placement pénitentiaire
17	4	Visites familiales privées
26	25	Programmes
31	7	Demandes d'information
4	3	Administration des peines
9	6	Personnel
40	10	

TABLEAU G

ÉTAT DES PLAINTES

Mesure	Nombre
Cas en suspens	265
Cas hors mandat (aucune mesure)	186
Plaintes prématurées	1965
Plaintes injustifiées	791
Plaintes retirées	326
Aide fournie	849
Conseils fournis	190
Renseignements fournis	1567
Cas réglés	486
Cas qu'il a été impossible de régler	174
Total	6799

TABLEAU F

ENTREVUES DES DÉTENUÉS

1994	Nombre d'entrevues
Juin	259
Juillet	111
Août	81
Septembre	296
Octobre	132
Novembre	172
Décembre	233
<u>1995</u>	
Janvier	71
Février	121
Mars	150
Avril	298
Mai	<u>154</u>
Total	2 078

TABLEAU E

VISITES AUX ÉTABLISSEMENTS

Établissement	Nombre de visites
Archambault	5
Atlantique	14
Bath	4
Beaver Creek	2
Bowden	6
Collins Bay	8
Cowansville	8
Donncona	9
Dorchester	8
Drumheller	8
Edmonton	7
Elbow Lake	1
Centre fédéral de formation	6
Ferndale	3
Frontenac	4
Joyceville	9
Kent	6
Pénitencier de Kingston	19
La Macaza	6
Leclerc	9
Matsqui	5
Millihaven	6
Mission	5
Montréal-Saint-François	4
Mountain	5
Pittsburgh	3
Port-Cartier	11
Prison des femmes	8
Centre psychiatrique, Pacifique	4
Centre psychiatrique, Prairies	4
Centre de réception, Québec	4
Riverbend	4
Rockwood	2
Pénitencier de la Saskatchewan	8
Springhill	11
Sainte-Anne-des-Plaines	8
Stony Mountain	3
Warkworth	13
Westmorland	3
William Head	1
Total	254

TABLEAU D

PLAINTES ET POPULATION CARCÉRALE - PAR RÉGION

Région	Plaintes	Nombre de détenus*
Pacifique	645	1523
Prairies	1019	2773
Ontario	2331	3860
Québec	2082	3739
Maritimes	694	1417
CCC et CRC	28	
Total	6799	13312

* Ces chiffres, fournis par le Service correctionnel du Canada, sont ceux du 31 mars 1994.

TABLEAU C (suite)
PLAINTES PAR RÉGION

1993						1994					
Oct.	Nov.	Déc.	Jan.	Fév.	Mars	TOTAL	Oct.	Nov.	Déc.	Jan.	Fév.
19	19	22	8	44	12	246	19	19	22	8	44
21	5	9	10	10	9	146	21	5	9	10	10
8	6	16	2	63	6	148	8	6	16	2	63
0	0	0	0	0	0	0	0	0	0	0	0
23	4	1	0	0	2	41	23	4	1	0	0
0	0	0	0	1	0	7	0	0	0	1	0
22	3	5	1	3	0	88	22	3	5	1	3
40	5	6	1	11	9	111	40	5	6	11	9
12	7	2	1	9	8	80	12	7	2	9	8
1	20	8	3	7	13	133	1	20	8	3	7
2	0	1	4	0	1	19	2	0	1	4	0
19	14	9	32	19	14	242	19	14	9	32	19
8	24	15	18	8	23	230	8	24	15	18	8
10	26	50	19	34	14	294	10	26	50	19	34
17	25	15	14	32	21	238	17	25	15	14	32
10	11	10	13	4	12	141	10	11	10	13	4
15	48	17	10	18	18	254	15	48	17	10	18
11	25	24	11	15	12	273	11	25	24	11	15
12	4	2	4	6	2	60	12	4	2	4	6
0	0	0	0	0	0	0	0	0	0	0	0
8	24	11	19	6	6	205	8	24	11	19	6
2	1	1	1	2	4	26	2	1	1	2	4
1	4	4	2	6	2	40	1	4	4	2	6
2	2	2	5	6	2	56	2	2	2	5	6
0	0	1	3	4	3	23	0	0	1	3	4
568	609	564	535	471	445	6 799	568	609	564	535	471

TABLEAU C (suite)

PLAINTES PAR RÉGION

1993

Avril Mai Juin Juil. Août Sept.

Région des Prairies

Bowden	21	19	21	29	15	17
Drumheller	14	14	11	23	16	4
Edmonton	3	8	5	16	11	4
Centre Oskana	0	0	0	0	0	0
Riverbend	0	4	0	4	1	2
Rockwood	3	1	1	1	0	0
Centre psychiatrique	7	10	3	29	1	4
Pén. de la Saskatchewan	9	12	2	10	3	3
Unité spéciale de détention	6	12	7	14	0	2
Stony Mountain	24	6	7	30	9	5
Etabl. provinciaux	2	2	0	4	2	1

Région du Québec

Archambault	35	9	31	18	23	19
Cowansville	31	15	28	15	11	34
Donnaccona	29	16	20	37	13	26
Drummondville	16	15	28	6	26	23
Centre féd. de formation	15	8	14	20	11	13
La Macaza	33	15	22	19	17	22
Leclerc	45	49	24	13	28	16
Montée Saint-François	6	2	9	4	4	5
Centre Ogilvy	0	0	0	0	0	0
Port-Cartier	29	16	17	12	48	9
Centre régional de réception	2	5	4	1	3	0
USD-Québec	1	1	5	10	3	1
Sainte-Anne-des-Plaines	12	3	2	13	2	5
Etabl. provinciaux	2	2	2	2	2	2

PLAINTES PAR RÉGION

TABEAU C

1993				1994			
Oct.	Nov.	Déc.		Jan.	Fév.	Mars	TOTAL
26	19	33		32	16	3	241
21	13	23		14	18	9	195
12	10	13		16	12	6	187
4	4	13		3	1	4	56
4	4	0		2	0	0	15
33	7	8		10	1	14	93
21	2	1		3	3	1	51
10	30	14		9	15	20	235
2	13	1		9	1	5	67
17	15	18		20	36	12	275
30	68	22		30	11	1	382
28	20	16		8	8	27	222
2	2	2		3	2	2	17
32	28	15		5	26	5	288
4	8	6		5	3	3	39
29	39	82		47	33	99	601
5	2	9		7	5	4	61
0	1	1		0	7	3	24
1	10	10		14	59	5	224
2	2	3		6	4	2	63
8	6	9		6	16	5	120
4	4	8		3	11	8	75
2	1	4		2	16	6	46
2	6	8		11	17	5	73
0	1	0		0	1	1	4

PLAINTES PAR RÉGION

TABLEAU C

1993					
Région de l'Atlantique					
Atlantique	Dorchester	Springhill	Westmorland	Etabl. provinciaux	
27	17	11	8	1	
16	12	14	7	1	
20	15	24	1	1	
15	15	18	1	0	
9	8	6	2	0	
25	30	45	8	2	
Région de l'Ontario					
Bath	Beaver Creek	Collins Bay	Frontenac	Joyceville	Pénitencier de Kingston
45	1	36	13	9	20
2	4	21	2	31	63
4	8	20	3	27	43
2	3	22	11	29	43
1	2	23	2	16	10
7	3	15	5	45	41
8	0	0	0	8	26
0	0	0	0	0	7
6	28	53	29	36	1
1	5	2	1	0	29
23	86	35	29	30	6
3	5	7	1	69	7
Etabl. provinciaux	Warkworth	Centre régional de traitement	Prison des femmes	Pittsburgh	Millhaven
Région du Pacifique					
Elbow Lake	Ferndale	Kent	Matsqui	Mission	Mountain
0	0	36	2	11	5
3	1	9	4	4	6
0	0	5	4	1	9
3	2	25	15	14	10
6	0	8	3	9	6
0	2	38	16	31	9
0	0	2	0	3	6
6	0	5	6	1	3
Etabl. provinciaux	William Head	Centre psychiatrique	0	2	0

TABLEAU B

PLAINTES PAR MOIS

<u>1994</u>	
Jun	670
Juillet	532
Août	425
Septembre	730
Octobre	568
Novembre	609
Décembre	564
<u>1995</u>	
Janvier	535
Février	471
Mars	445
Avril	690
Mai	560
Total	6 799

TABLEAU A (suite)

PLAINTES REÇUES OU EN SUSPENS - PAR CATÉGORIE

Autres questions	213
PlACEMENT pénitentiaire	109
Visites familiales privées	244
Programmes	195
Demandes d'information	368
Administration des peines	90
Personnel	254
Classement de sécurité	44
Permissions de sortir	87
Téléphone	92
Transfèrerments	362
a) décisions	268
b) non sollicités	44
Recours à la force	288
Visites	

Cas hors mandat

Décisions de la Commission nationale des libérations conditionnelles	162
Questions relevant d'un tribunal de l'extérieur	18
Questions de compétence provinciale	37

Total

6 799

TABLEAU A

PLAINTES REÇUES OU EN SUSPENS - PAR CATÉGORIE

Isolément préventif	
a) placement	361
b) conditions	143
Préparation des cas	
a) libérations conditionnelles	339
b) permissions de sortir	62
c) transfèrements	397
Effets de cellule	339
Placement en cellule	139
Réclamations	
a) décisions	74
b) traitement	61
Correspondance	85
Régime alimentaire	
a) pour des raisons médicales	47
b) pour des raisons religieuses	12
Discipline	
a) décision d'un président de l'extérieur	30
b) décision relative à une infraction mineure	19
c) procédures	125
Discrimination	16
Emploi	197
Questions financières	
a) accès	77
b) rémunération	211
Nourriture	22
Procédure de règlement des griefs	197
Services de santé	
a) accès	320
b) décisions	300
Information	
a) consultation	65
b) correction	212
Services de santé mentale	
a) accès	64
b) programmes	10

TABLEAUX

enquêtes approfondies et objectives sur un vaste éventail de mesures administratives, et de présenter nos conclusions et recommandations à un éventail tout aussi large de décideurs, qui peuvent ensuite veiller à ce que des mesures correctives raisonnables soient prises lorsque les premières tentatives de résolution ont échoué.

J'ai écrit, dans mon rapport annuel de 1992-1993, que les dispositions sur la communication d'informations qu'on trouve aux articles 180 et 193 de la Loi constituaient des éléments importants et nécessaires dans un processus de résolution qui n'a pas force obligatoire. J'ajoutais que, bien que ce processus de présentation de rapports soit important, on doit garder présent à l'esprit le fait que notre véritable raison d'être n'est pas de signaler les problèmes touchant les délinquants, mais d'en faciliter la résolution. C'est dans cette perspective, c'est-à-dire celle de la réponse à donner à des préoccupations générales et particulières, que, selon moi, la Loi nous est utile. Utile parce qu'elle imprime une direction et une impulsion précises, non seulement à nos activités, mais aussi à celles des responsables qui doivent veiller à ce que les problèmes des délinquants soient réglés rapidement et d'une manière équitable.

Bien que la direction et l'impulsion actuelles ne soient manifestement pas favorables à ma position, je crois que, dans le cadre actuel, il existe une possibilité de résolution d'une manière acceptable des problèmes. J'invite tous ceux qui sont chargés de veiller à ce que les problèmes des délinquants soient réglés rapidement et d'une manière équitable à porter leur attention sur le contenu des observations et des recommandations du Bureau plutôt que d'aborder ces questions en termes imprécis et généraux, et en se tournant vers l'avenir. Pour le système correctionnel fédéral, l'avenir, étant donné le grave problème de surpeuplement, se prépare maintenant.

Vu les progrès limités accomplis pendant l'année qui vient de s'écouler, j'ai reproduit le texte du rapport annuel de l'an dernier qui porte sur des problèmes systémiques depuis longtemps non résolus et qui restent à l'étude. Je continue de penser qu'il est important de comprendre et de savoir évaluer les répercussions et l'évolution de ces questions, ainsi que les observations que le Service a présentées et les engagements qu'il a pris, si l'on veut les résoudre. Je pense en outre que, pour que nous puissions trouver un terrain d'entente, il faut abandonner un processus qui, non seulement tendait à polariser les opinions, mais a aussi eu pour effet de rendre trop diffus et obscurs les points essentiels des questions en jeu.

J'ai donc voulu, après l'exposé de chacune des questions qui figurent dans le rapport de cette année, plutôt que de simplement présenter de nouveau des positions déjà définies, indiquer les sujets précis de préoccupation relatifs à chaque question traitée ainsi que les points particuliers qu'il est nécessaire d'éclaircir ou d'aborder afin de parvenir autant que possible à la résolution des problèmes. En outre, en vue de présenter d'une façon équilibrée et détaillée les mesures prises à cette fin et pour me conformer aux dispositions de l'article 195 de la Loi sur le système correctionnel et la mise en liberté sous condition, j'ai joint à titre d'annexes C et D le document de travail du Bureau relativement au rapport annuel 1994-1995 et les observations du Commissaire au sujet de ce document.

J'espère que, en mettant ainsi de nouveau l'accent sur le contenu des questions en jeu, nous aiderons, non seulement à trouver des solutions à des préoccupations générales, mais aussi à faire en sorte que les préoccupations particulières des détenus, lesquelles se rapportent à ces mêmes points, reçoivent en temps opportun toute l'attention voulue.

INTRODUCTION

Dans la conclusion de mon rapport, l'an dernier, j'ai demandé explicitement que les préoccupations légitimes des détenus reçoivent en temps opportun toute l'attention voulue. Dans l'introduction, j'avais écrit que je ne voyais guère comment ces sujets de préoccupation légitimes avaient la priorité qu'ils méritaient.

Les réponses reçues du Service correctionnel du Canada, au palier national, pendant l'année qui vient de s'écouler, qu'elles portent sur les préoccupations particulières ou générales des détenus, ont malheureusement les mêmes caractéristiques que celles dont notre Bureau faisait état en 1992 : elles sont lentes à venir et elles témoignent d'une attitude défensive et circonspecte.

Il est de règle et de tradition pour le Bureau de tenter d'obtenir, dans des limites raisonnables, une réponse aux préoccupations des détenus par la discussion, l'examen et la négociation avec le Service. La communication au Ministère de cas de retard, de mesures non satisfaisantes ou non appropriées prend habituellement la forme d'un exposé de ces cas dans mon rapport annuel. Il est tout à fait clair que cette façon de procéder ne peut être efficace que si le Service est disposé à accepter dans une mesure raisonnable de discuter et d'examiner les préoccupations soulevées par le Bureau, de négocier et de prendre les mesures qui s'imposent, avec un soin et dans des délais acceptables. La volonté du Service, en particulier à l'administration centrale, de prendre des mesures utiles à cet égard pendant l'année écoulée s'est manifestée au mieux de manière sporadique.

Étant donné la persistance de cette situation caractérisée par des retards excessifs, une attitude défensive et circonspecte, le niveau du Commissaire ne peut plus être considéré en fait comme un palier de résolution fiable pour les préoccupations particulières ou générales des détenus. C'est pourquoi, pour la première fois depuis l'adoption de la Loi sur le système correctionnel et la mise en liberté sous condition, j'ai porté, cette année, sept cas à l'attention du Ministère aux termes de l'article 180 de cette loi :

180. Avis et rapport au ministre

Si aucune action, qui semble à l'enquêteur correctionnel convenable et indiquée, n'est entreprise dans un délai raisonnable après la remise du rapport au commissaire, ou à celui-ci et au président de la Commission nationale des libérations conditionnelles, l'enquêteur correctionnel informe le ministre de ce fait et lui fournit les renseignements donnés à l'origine au commissaire, ou à celui-ci et au président de la Commission.

J'ai en outre rédigé, en février de cette année, un rapport spécial sur la Prison des femmes aux termes de l'article 193 de la Loi sur le système correctionnel et la mise en liberté sous condition :

193. Questions urgentes

L'enquêteur correctionnel peut, à toute époque de l'année, présenter au ministre un rapport spécial sur toute question relevant de ses pouvoirs et fonctions et dont l'urgence ou l'importance sont telles, selon lui, qu'il serait contre-indiqué d'en différer le compte rendu jusqu'à l'époque normale du rapport annuel suivant; le ministre fait déposer le rapport spécial devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant sa réception.

J'ai joint au présent rapport, à titre d'annexes A et B, des copies des lettres de présentation des cas aux termes de l'article 180 et du rapport spécial, y compris la réponse donnée par le Service.

La Loi sur le système correctionnel et la mise en liberté sous condition, qui est entrée en vigueur en novembre 1992, établit clairement l'indépendance et le mandat de notre Bureau dans un cadre législatif correspondant à celui d'un ombudsman. Bien que nos observations et nos recommandations n'aient pas force obligatoire, ce qui est conforme à la fonction classique d'un ombudsman, notre pouvoir et notre efficacité résident dans notre capacité de mener des

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L'Enquêteur correctionnel

The Correctional Investigator
Canada

C.P. 2324, Station D
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Le 29 juin 1995

L'honorable Herb Gray
Solliciteur général du Canada
Chambre des communes
Rue Wellington
Ottawa (Ont.)

Monsieur le Solliciteur général,

Conformément aux dispositions de l'article 192 de la Loi sur le système
correctionnel et la mise en liberté sous condition, j'ai le devoir et l'honneur
de vous soumettre le vingt deuxième rapport annuel de l'Enquêteur
correctionnel.

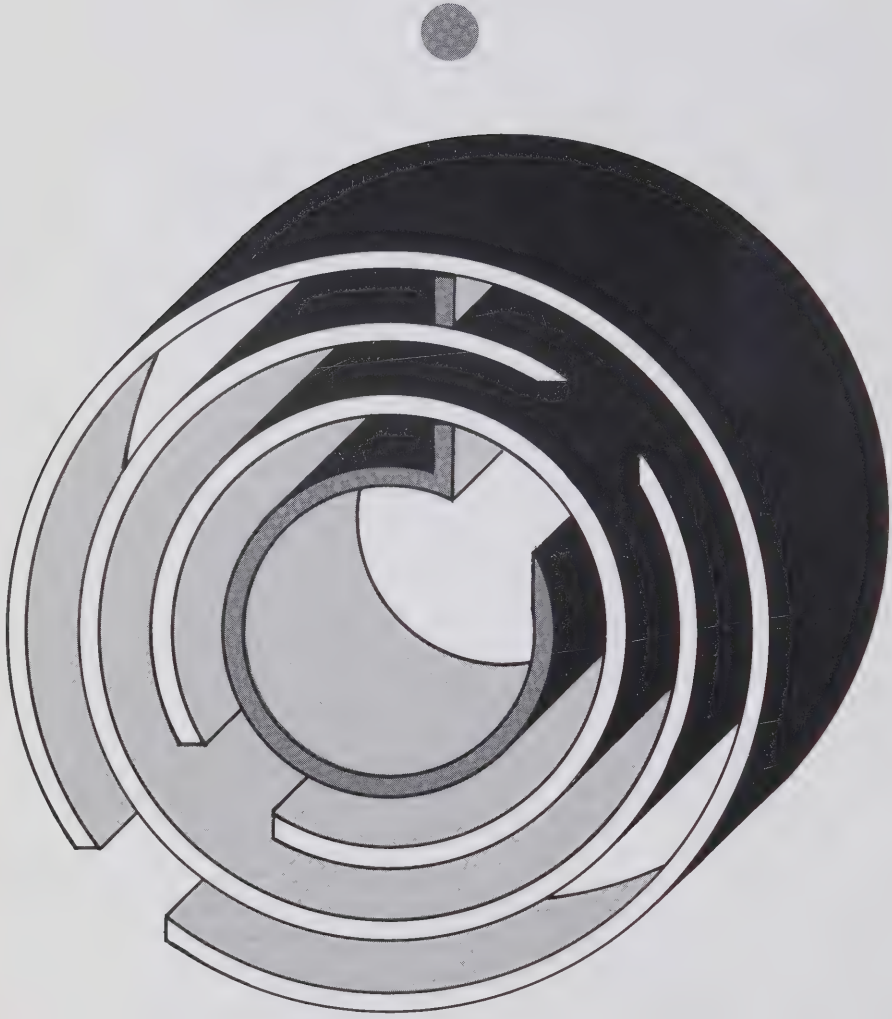
Veuillez agréer, Monsieur le Solliciteur général, l'expression de mes
sentiments distingués.

L'Enquêteur correctionnel,

R.L. Stewart

Rapport annuel
de
l'Enquêteur
correctionnel

1994-1995



Rapport annuel de l'Enquêteur correctionnel 1994 - 1995

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Annual Report of the Correctional Investigator

1995 - 1996

**Annual Report
of the
Correctional
Investigator**



1995-1996



The Correctional Investigator
Canada

275 Slater Street
Suite 402
Ottawa, Ontario
K1P 5H9

L'Enquêteur correctionnel
Canada

275 rue Slater
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June 28, 1996

The Honourable Herb Gray
Solicitor General of Canada
House of Commons
Wellington Street
Ottawa, Ontario

Dear Mr. Minister:

In accordance with the provisions of section 192 of the Corrections and Conditional Release Act, it is my duty and privilege to submit to you, the twenty-third Annual Report of the Correctional Investigator.

Yours respectfully,

R.L. Stewart
Correctional Investigator

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INTRODUCTION

I end this reporting year on a cautiously optimistic note despite the fact that limited progress has been achieved on most of the issues detailed in this report and the approach of the Correctional Service at the national level in addressing these matters remains for the most part excessively defensive, delayed and non-committal. The source of my guarded hope for positive change in federal corrections is tied to the work of the *Commission of Inquiry into Certain Events at the Prison for Women in Kingston* and the anticipated ministerial response to the Commission's Report.

The Commission and the report have provided for all those involved in and responsible for federal corrections with both an opportunity and a clear direction for necessary change. The key to the effectiveness of this change will be in large part dependent on the steps taken to address the Correctional Service's "deplorable defensive culture". This culture has resulted, far too often, in a management approach, characterized by Madame Justice Arbour as - "deny error, defend against criticism and react without a proper investigation of the truth".

The Office of the Correctional Investigator is mandated as an Ombudsman for Federal Corrections. The specific function of the Office as detailed at Section 167 of the *Corrections and Conditional Release Act* reads: "to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner (of Corrections) or any person under the control and management of, or performing services for or on behalf of the Commissioner that affect offenders either individually or as a group". A central element of any ombudsman function, in addition to independence and unfettered access to information in the conducting of its investigations, is that they act by way of recommendation and public reporting, as opposed to decisions that are enforced. I have included within the Operations Section of this report an overview of the legislative provisions governing our operation.

The authority of the Office, within this framework, lies in its ability to thoroughly and objectively investigate a wide spectrum of administrative actions and present its findings and recommendations initially to the Correctional Service of Canada. In those instances where the Correctional Service of Canada has failed to reasonably address the Office's findings and recommendations, the issue is referred to the Minister and eventually to Parliament and the public, generally through the vehicle of our Annual Report. The Office, as such, in attempting to ensure administrative fairness and accountability within correctional operations is dependent in large part on the willingness of the Correctional Service to approach the findings and recommendations of this Office in an objective, thorough and timely fashion.

I have been singularly unsuccessful over the past few years, as evidenced by my previous Annual Reports, in causing a change in the Correctional Service's approach in dealing with matters raised by this Office. Madame Justice Arbour in commenting on Correctional Service accountability and the role of this Office stated:

It is clear to me that the Correctional Investigator's statutory mandate should continue to be supported and facilitated. Of all the outside observers of the Correctional Service, the Correctional Investigator is in a unique position both to assist in the resolution of individual problems, and to comment publicly on the systemic shortcomings of the Service. Of all the internal and external mechanisms or agencies designed to make the Correctional Service open and accountable, the Office of the Correctional Investigator is by far the most efficient and the best equipped to discharge that function. It is only because of the Correctional Investigator's inability to compel compliance by the Service with his conclusions, and because of the demonstrated unwillingness of the Service to do so willingly in many instances, that I recommend greater access by prisoners to the courts for the effective enforcement of their rights and the vindication of the Rule of Law.

In concluding on this matter, Madame Justice Arbour stated: "In terms of general correctional issues, the facts of this inquiry have revealed a disturbing lack of commitment to the ideals of Justice on the part of the Correctional Service... There is nothing to suggest that the Service is either willing or able to reform without judicial guidance and control".

On the basis of my own experience over the past few years and without limiting the judicial guidance and control called for by Justice Arbour, I believe there is a need for a mechanism between this Office and the courts with the authority to order timely corrective action in instances of illegalities, gross mismanagement or unfairness. The correctional environment, the impact of administrative decisions on individuals within that environment and the consistent failure of the Correctional Service to approach individual and systemic areas of concern in an objective, thorough and timely fashion demands that a timely and responsive binding avenue of redress be available.

As such I recommend:

- a) that an administrative tribunal be established with the authority both to compel Correctional Service compliance with legislation and policy governing the administration of the sentence and to redress the adverse effects of non-compliance, and
- b) that access to the tribunal be provided for in those instances where if within a reasonable time after receiving a recommendation from the Correctional Investigator pursuant to s. 179 of the *Corrections and Conditional Release Act*, the Commissioner of Corrections takes no action that is seen as adequate or appropriate.

The above recommendation is intended to support and complement, not attenuate or replace, the function of the Office in ensuring that areas of offender concern are decided on in an objective and timely fashion consistent with the Service's legislative responsibilities.

With respect to the long-standing areas of systemic concern detailed in last year's Annual Report, as I mentioned at the outset, limited progress has been achieved.

I stated last year that: "The responses of the Correctional Service on these matters have consistently avoided the substance of the issues at question, including a failure to address the specific observations and recommendations contained in previous reports. The responses, further, are excessively defensive, display little if any appreciation of the history or significance of the issues at question and provide at best a further string of endless promises of future action, with no indication as to expected results or how the results of these proposed actions will be measured or analyzed".

In an effort to break this cycle of annually restating increasingly polarized positions on these matters I attempted, in last year's report, to do two things. First, to provide a detailed overview on the evolution of these long-standing issues, inclusive of a fair representation of the Service's previous and current comments and commitments. Second, to promote a focusing on the specific areas of concern associated with those issues in the hope of causing some meaningful action to be taken. I concluded last year's report by stating: "To ensure that these issues are reasonably addressed, the Service must begin to turn its attention to the specifics identified within the Annual Report and cease its current practice of approaching the issues in an overly generic and isolated fashion. I am hopeful that a focusing on the specifics of the issues will assist in ensuring not only that these systemic concerns are reasonably addressed but that the individual inmate concerns associated with these issues, can be dealt with in a timely and responsive fashion".

I quite frankly, at this time, have very little to add to either my above-noted comments or my previous detailing on the specifics of the issues. There is, in attempting to move towards a resolution on these long-standing areas of concern, limited benefit to be gained at this time through either a rewording of my position on these issues or the passing of additional comment on the Service's responses. I have therefore in this year's Annual Report, for each of the issues which remain outstanding, provided the text from last year and limited my current commentary to the identification of the specific actions that, to my mind, need to be taken to reasonably address the areas of concern. I have, as well, in an attempt to ensure that the public record on these issues is complete, included as annexes to this report:

- a) This Office's Overview on the status of Annual Report issues provided to the Correctional Service and the Minister's Office in February of 1996, and
- b) The Correctional Service's Progress Report on the Annual Report issues received May 1, 1996.

Prior to closing the Introduction to this year's Annual Report, I want to ensure clarity on a number of points.

First, I view the issues detailed in this report as extremely significant and central to the Service's meeting of its legislative responsibilities for ensuring the fair and humane administration of the sentence and the successful re-integration of offenders into society so as to ensure the protection of society.

Second, I believe that the finding of common ground and the resolution of these issues is achievable if there is a will to address these areas of offender concern in an open and cooperative fashion.

Third, I appreciate the fact that the finding of common ground and movement toward resolution is a two party process. This Office is prepared to continue to work with the senior administration of the Correctional Service in an open and cooperative fashion in order to assist in addressing these areas of concern.

Finally, I am firmly committed to the Ombudsman concept and remain of the opinion that the provisions of the *Corrections and Conditional Release Act* provide for a process within which the vast majority of individual and systemic concerns can be reasonably addressed. An element of that process, which to date I have used sparingly, provides for the referral of issues directly to the Minister, independent of the Annual Report, on matters which are "urgent" or where the Service has failed, within a reasonable time, to take "adequate or appropriate action". Given the significance of the Annual Report issues and the ineffectiveness of the Annual Report as a vehicle of resolution, I have no option, if immediate action is not taken by the Service to reasonably address these matters, other than to refer these issues directly to the attention of the Minister under the provisions provided for by the legislation.

OPERATIONS

On November 1, 1992 the *Corrections and Conditional Release Act* ("an Act respecting corrections and the conditional release and detention of offenders and to establish the Office of the Correctional Investigator") came into force. Part III of the Act governs the operation of this Office and parallels very closely the provisions of most provincial Ombudsman legislation, albeit, in our case, within the context of investigating the activities of a single government organization and reporting to the legislature through a single Minister. The "Function" of the Correctional Investigator, as with all Ombudsman mandates, is purposefully broad:

to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner (of Corrections) or any person under the control and management of, or performing services for or on behalf of, the Commissioner, that affect offenders either individually or as a group.

Inquiries can be initiated on the basis of a complaint or at the initiative of the Correctional Investigator with full discretion resting with the Office in deciding whether to conduct an investigation and how that investigation will be carried out.

In the course of an investigation, the Office is afforded significant authority to require the production of information up to and including a formal hearing involving examination under oath. This authority is tempered, and the integrity of our function protected, by the strict obligation that we limit the disclosure of information acquired in the course of our duties to that which is necessary to the progress of the investigation and to the establishing of grounds for our conclusions and recommendations. Our disclosure of information, to all parties, is further governed by safety and security considerations and the provisions of the *Privacy and Access to Information Acts*.

The provisions above which limit our disclosure of information, are complemented by other provisions within Part III of the Act which prevent our being summoned in legal proceedings and which underline that our process exists without affecting, or being affected by, appeals or remedies before the Courts or under any other Act. The purpose of these measures is to prevent us from being compromised by our implication, either as a "discovery" mechanism or as a procedural prerequisite, within other processes - an eventuality which could potentially undermine the Office's Ombudsman function.

The Office's observations and findings, subsequent to an investigation, are not limited to a determination that a decision, recommendation, act or omission was contrary to existing law or established policy. In keeping with the purposefully broad nature of our Ombudsman function, the Correctional Investigator can determine that a decision, recommendation, act or omission was: "unreasonable, unjust, oppressive or improperly discriminatory; or based wholly or partly on a mistake of law or fact"; or that a discretionary power has been exercised, "for an improper purpose, on irrelevant grounds, on the taking into account of irrelevant considerations, or without reasons having been given".

The Act at Section 178 requires that where in the opinion of the Correctional Investigator a problem exists, the Commissioner of Corrections shall be informed of that opinion and the reasons therefore. The practice of the Office has been to attempt to resolve problems through consultation at the institutional and regional levels in advance of referring matters to the attention of the Commissioner. While we will continue to ensure that appropriate levels of management within the Service are approached with respect to complaints and investigations, I believe this provision clearly implies that the unresolved "problems" of offenders are to be referred to the Commissioner in a timely fashion. As such the pace of our resolution process at all levels within the Service will necessarily be quickened.

The legislation as well provides that the Correctional Investigator, when informing the Commissioner of the existence of a problem, may make any recommendation relevant to the resolution of the problem that the Correctional Investigator considers appropriate. Although these recommendations are not binding, consistent with the Ombudsman function, the authority of the Office lies in its ability to thoroughly and objectively investigate a wide spectrum of administrative actions and present its findings and recommendations to an equally broad spectrum of decision-makers, inclusive of Parliament, which can cause reasonable corrective action to be taken if earlier attempts at resolution have failed.

A significant step in this resolution process is the provision at Section 180 of the Act which requires the Correctional Investigator to give notice and report to the Minister if within a reasonable time no action is taken by the Commissioner that seems to the Correctional Investigator to be adequate and appropriate. Section 192 and 193 of the legislation continues this process by requiring the Minister to table in both Houses of Parliament within a prescribed time period the Annual Report and any Special Report issued by the Correctional Investigator.

Operationally, the primary function of the Correctional Investigator is to investigate and bring resolution to individual offender complaints. The Office as well has a responsibility to review and make recommendations on the Service's policies and procedures associated with the areas of individual complaint to ensure that systemic areas of concern are identified and appropriately addressed.

All complaints received by the Office are reviewed and initial inquiries made to the extent necessary to obtain a clear understanding of the issue in question. After this initial review, in those cases where it is determined that the area of complaint is outside our mandate, the complainant is advised of the appropriate avenue of redress and assisted when necessary in accessing that avenue. For those cases that are within our mandate, the complainant is provided with a detailing of the Service's policies and procedures associated with the area of complaint. An interview is arranged and the offender is encouraged to initially address the concerns through the Service's internal grievance process. Although we encourage the use of the internal grievance process, we do not insist on its use as a pre-condition to our involvement. If it is determined during the course of our initial review that the offender will not or cannot reasonably address the area of concern through the internal grievance process or the area of complaint is already under review with the Service, we will exercise our discretion and take whatever steps are required to ensure that the area of complaint is addressed.

The Office is neither an agent of the Correctional Service of Canada nor the advocate of every complainant or interest group that lodges a complaint. The Office investigates complaints from an independent and neutral position, considers thoroughly the Service's action and the reasons behind it, and either endorses and explains that action to the complainant or if there is evidence of unfairness, makes an appropriate recommendation concerning corrective action. The Office over the course of the reporting year received 6,794 complaints, the investigative staff spent 236 days at federal penitentiaries and conducted nearly 2,000 interviews with inmates and half again that number of interviews with institutional and regional staff. These numbers are consistent with our operations last year and have again been managed within a decreasing budget. This has been achieved in large part through the creativity and plain hard work of a very dedicated and talented staff and I wish to publicly thank them for their efforts.

The areas of complaint continue to focus on those long-standing issues which have been detailed in past Annual Reports. A specific breakdown on areas of complaint, dispositions, institutional visits and interviews is provided in the statistics section.

In addition to the above, the Office was party to and an active participant in the Arbour Commission of Inquiry. I have included as Annexes C and D to this Report my *Special Report* on the Prison for Women incident, dated February 14, 1995, which in part prompted the Commission of Inquiry and this Office's Submission on Phase II, Arbour Commission, Policy Review dated January 9, 1996.

Given this Office's active involvement in the addressing of the complaints raised at the Prison for Women in April of 1994, our participation in the Commission of Inquiry and our continuing responsibilities of addressing complaints raised by federally sentenced women, I will be following up with both the Minister and the Commissioner of Corrections on the specifics of Madame Justice Arbour's findings and recommendations when the ministerial response is finalized.

STATISTICS

TABLE A
COMPLAINTS RECEIVED AND PENDING BY CATEGORY

Administrative Segregation	
a) Placement	117
b) Conditions	370
Case Preparation	
a) Parole	323
b) Temporary absences	96
c) Transfer	390
Cell Effects	425
Cell Placement	120
Claims	
a) Decisions	74
b) Processing	82
Correspondence	81
Diet	
a) Medical	29
b) Religious	23
Discipline	
a) ICP decisions	28
b) Minor court decisions	18
c) Procedures	142
Discrimination	10
Employment	151
Financial matters	
a) Access	74
b) Pay	237
Food Services	24
Grievance procedure	280
Health Care	
a) Access	290
b) Decisions	268
Information	
a) Access	88
b) Correction	275
Mental health	
a) Access	26
b) Programs	5
Other	46
Penitentiary Placement	133
Private family visits	232
Programs	244
Request for information	297
Security classification	72
Sentence administration	83
Staff	314
Temporary absence decisions	91
Telephone	91

TABLE A (Cont'd)
COMPLAINTS RECEIVED AND PENDING BY CATEGORY

Transfer	
a) Decision	295
b) Involuntary	270
Use of force	57
Visits	314
 <u>Outside Terms of Reference</u>	
Parole Board decisions	147
Outside court	21
Provincial matter	<u>41</u>
 Total	
	6794

TABLE B
COMPLAINTS - BY MONTH

1995

April	645
May	610
June	542
July	619
August	488
September	636
October	674
November	480
December	374

1996

January	472
February	629
March	<u>625</u>

Total	6794
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TABLE C
COMPLAINTS - BY REGION

	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>
<u>Maritimes</u>						
Atlantic	55	34	16	15	14	38
Dorchester	44	18	14	8	8	19
Springhill	18	16	19	13	19	10
Westmorland	5	6	2	5	3	6
Provincial Facilities	0	2	0	3	0	1
<u>Ontario</u>						
Bath	6	12	5	13	11	8
Beaver Creek	2	15	3	5	6	3
Collins Bay	9	10	34	7	16	15
Frontenac	7	6	6	0	4	0
Joyceville	20	39	16	10	22	26
Kingston Penitentiary	77	38	57	22	18	33
Millhaven	16	15	21	21	31	21
Pittsburgh	2	5	0	0	0	0
Prison for Women	7	26	10	20	16	22
Regional Treatment Centre	20	4	2	1	2	1
Warkworth	38	37	31	40	37	19
Provincial Facilities	7	4	10	7	7	6
<u>Pacific</u>						
Burnaby Correctional Centre	0	0	0	0	0	0
Elbow Lake	1	1	0	13	1	8
Ferndale	1	1	0	1	1	0
Kent	8	15	5	53	19	18
Matsqui	1	4	4	13	2	6
Mission	3	4	6	9	4	5
Mountain	6	8	3	32	1	4
Regional Health Centre	1	0	1	14	1	1
William Head	1	3	3	22	0	5
Provincial Facilities	0	0	0	0	0	0

TABLE C
COMPLAINTS - BY REGION

<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>	<u>Jan.</u>	<u>Feb.</u>	<u>March</u>	<u>Total</u>
18	4	25	12	16	19	266
51	10	21	15	19	17	244
35	6	19	18	13	23	209
38	1	2	1	4	3	76
3	2	3	4	6	9	33
17	10	4	2	6	11	105
6	6	2	3	6	2	59
38	10	9	8	19	19	194
6	0	1	3	6	1	40
22	30	10	11	29	23	258
13	31	3	23	48	13	376
62	23	21	8	14	49	302
0	6	0	0	2	1	16
13	13	22	6	6	36	197
4	3	0	9	4	2	52
41	25	25	14	65	20	392
8	5	4	0	3	4	65
0	1	0	0	0	0	1
1	1	0	7	1	0	34
1	1	0	0	1	0	7
17	36	10	52	9	8	250
4	9	3	6	9	7	68
9	33	3	3	11	6	96
6	14	4	5	8	4	95
7	3	2	3	26	0	59
0	4	3	6	20	2	69
1	0	1	0	0	0	2

TABLE C (Cont'd)
COMPLAINTS - BY REGION

	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sept.</u>
<u>Prairies</u>						
Bowden	9	30	33	14	17	29
Drumheller	4	14	19	7	14	19
Edmonton	11	11	19	18	15	21
Edmonton Women's Facility	0	0	0	0	0	0
Grande Cache	0	0	0	0	0	0
Healing Lodge	0	0	0	0	0	0
Riverbend	12	0	1	9	1	12
Rockwood	5	1	0	0	0	12
Saskatchewan Penitentiary	11	6	1	21	1	24
Special Handling Unit	13	2	3	12	0	17
Stony Mountain	11	7	7	37	8	34
Provincial Facilities	2	8	2	14	6	3
Regional Psychiatric Centre	13	3	5	4	1	6
<u>Quebec</u>						
Archambault	7	30	13	16	15	16
Cowansville	47	25	14	10	15	25
Donnacona	11	36	8	37	22	30
Drummondville	28	13	23	9	14	25
Federal Training Centre	9	9	12	14	6	7
La Macaza	12	25	10	14	36	11
Leclerc	21	27	40	17	24	24
Montee St. Francois	7	1	5	1	9	13
Port Cartier	39	22	46	11	16	20
Regional Reception Centre	2	3	3	1	2	4
Special Handling Unit	4	8	3	3	5	4
Ste-Anne des Plaines	12	2	5	0	9	2
Provincial Facilities	0	4	1	2	3	1
CCC and CRC	0	0	1	1	6	2
Total	645	610	542	619	488	636

TABLE C (cont'd)
COMPLAINTS - BY REGION

<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>	<u>Jan.</u>	<u>Feb.</u>	<u>March</u>	<u>Total</u>
10	14	9	12	10	72	259
4	11	0	4	12	27	135
8	5	3	4	2	37	154
0	0	0	0	0	14	14
2	3	0	0	2	0	7
0	1	0	0	1	3	5
1	2	3	0	1	6	48
1	0	0	0	2	12	33
5	5	18	5	4	7	108
12	6	3	0	3	5	76
7	6	11	14	6	18	166
5	7	1	3	3	4	58
6	0	1	3	1	6	49
36	7	7	9	10	8	174
15	10	13	15	42	7	238
27	16	17	33	34	14	285
24	15	12	29	25	20	237
8	6	9	25	21	14	140
11	7	15	30	11	5	187
24	25	17	18	27	30	294
3	5	7	4	9	2	66
18	20	12	14	14	18	250
11	8	6	14	16	7	77
5	4	6	6	6	6	60
7	3	7	6	11	3	67
3	4	0	2	4	0	24
0	3	0	3	1	1	18
674	481	374	472	629	625	6794

TABLE D
COMPLAINTS AND INMATE POPULATION BY REGION

<u>Region</u>	<u>Complaints</u>	<u>Inmate Population</u>
Pacific	682	1926
Prairie	1112	3285
Ontario	2056	3756
Quebec	2099	3882
Maritimes	828	1438
CCC	<u>17</u>	<u>380</u>
Total	6794	14667

TABLE E
INSTITUTIONAL VISITS

<u>Institution</u>	<u>Number of Visits</u>
Archambault	7
Atlantic	5
Bath	2
Beaver Creek	2
Bowden	7
Collins Bay	4
Cowansville	10
Donnacona	14
Dorchester	3
Drummond	6
Drumheller	5
Edmonton	6
Elbow Lake	2
Federal Training Centre	3
Ferndale	4
Frontenac	6
Grande Cache	1
Joyceville	8
Kent	6
Kingston Penitentiary	11
La Macaza	13
Leclerc	4
Matsqui	4
Millhaven	4
Mission	4
Montee St. Francois	3
Mountain	4
Pittsburgh	4
Port Cartier	13
Prison for Women	9
Psychiatric Centre, Pacific	3
Psychiatric Centre, Prairies	4
Reception Centre, Quebec	5
Riverbend	3
Rockwood	3
Saskatchewan Penitentiary	11
Springhill	4
Ste. Anne des Plaines	11
Stony Mountain	8
Warkworth	4
Westmorland	3
William Head	3
Total	236

TABLE F
INMATE INTERVIEWS

1995

April	250
May	122
June	134
July	233
August	58
September	152
October	146
November	138
December	94

1996

January	78
February	240
March	<u>202</u>
Total	1847

TABLE G
DISPOSITION OF COMPLAINTS

<u>Action</u>	<u>Number</u>
Pending	237
Beyond mandate (no action)	169
Premature	1666
Not justified	673
Withdrawn	207
Assistance given	1106
Advice given	519
Information given	1615
Resolved	489
Unable to resolve	<u>113</u>
Total	6794

TABLE H
COMPLAINTS RESOLVED OR ASSISTED WITH BY CATEGORY

	<u>Resolved</u>	<u>Assisted</u>
Administrative Segregation		
a) Placement	27	67
b) Conditions	24	44
Case Preparation		
a) Parole	21	51
b) Temporary absences	7	21
c) Transfer	31	82
Cell Effects	53	88
Cell Placement	13	25
Claims		
a) Decisions	2	12
b) Processing	5	15
Correspondence	12	11
Diet		
a) Medical	4	3
b) Religious	2	4
Discipline		
a) ICP decisions	1	1
b) Minor court decisions	2	0
c) Procedures	12	7
Discrimination	1	1
Employment	5	15
Financial matters		
a) Access	5	17
b) Pay	29	15
Food Services	1	4
Grievance procedure	22	66
Health Care		
a) Access	28	75
b) Decisions	12	39
Information		
a) Access	15	23
b) Correction	9	43
Mental health		
a) Access	0	6
b) Programs	1	3
Other	2	8
Penitentiary Placement	6	19
Private family visits	20	35
Programs	17	45
Request for information	2	7
Security classification	4	4
Sentence administration	5	13
Staff	11	58
Temporary absence decisions	9	13
Telephone	10	22

TABLE H (cont'd)**COMPLAINTS RESOLVED OR ASSISTED WITH BY CATEGORY**

Telephone	10	22
Transfer		
a) Decision	29	45
b) Involuntary	5	27
Use of force	1	10
Visits	22	46
<u>Outside Terms of Reference</u>		
Parole Board decisions	2	9
Outside court	0	2
Provincial matter	<u>0</u>	<u>5</u>
Total	489	1106

CURRENT COMPLAINT ISSUES

1. SPECIAL HANDLING UNITS

a) 1992-93

These Units are the Service's highest level of security and house those offenders which the Service has judged to be too dangerous to be housed in a maximum security institution. There are two Special Handling Units, one in Prince Albert, Saskatchewan the other at Ste-Anne-des-Plaines in Quebec. The combined capacity of the Units is 170 and they currently house 120 offenders.

The Service amended its policy governing the operation of these Units in March of 1990 with the stated objective of creating an environment with programs designed specifically to assess and address the needs of dangerous inmates so as to facilitate their integration in a maximum security institution.

I commented extensively in my 1989/90 Annual Report on the evolution of these Units and this Office's ongoing concerns with both the concept of separate institutions for these offenders and the operation of the Units themselves. I concluded that report by stating:

Although I continue to have concerns about the usefulness of the Special Handling Unit concept, I find the current policy as written a positive first step towards meeting the Commissioner's commitment to providing "suitable treatment and programming and a humane environment for violent offenders". I caution that the development of a reasonable policy is a number of steps removed from the implementation of a reasonable program. It must be remembered that the 1979 policy statement on Special Handling Units spoke in terms of establishing facilities and programs for offenders who had been identified as particularly dangerous for the purpose of assisting their re-integration with the main inmate population of maximum security institutions.

In the 1990s, the Service must not only be willing to objectively evaluate the compliance of the Unit's operations against its stated policy but as well must be willing to objectively evaluate the effectiveness of those operations in meeting its stated objective. The first step in this process will be the Annual Report of the National Review Committee. I look forward to the issuing of this report and the opportunity to review with the Commissioner its findings and recommendations.

The following year 1990/91 as the Review Committee report had not as yet been issued, my Annual Report re-stated the expectation that the Committee's review would objectively evaluate the compliance of the Special Handling Unit operation against the stated policy and as well objectively evaluate the effectiveness of those operations in meeting the stated objectives of the program.

A draft Special Handling Unit Report was issued by the Service in October of 1991 with the final report being released in January of 1992. The database within this report was inconsistent and ill-defined with no substantive analysis or review of the program's effectiveness in meeting the identified needs of the offender population. The Service, in summarizing the report stated that "as is evident from some of the statistical information contained in the report, a standardized reporting structure must be developed and agreed upon so that future analysis can be more meaningful".

I noted the inadequacy of the Annual Special Handling Unit Report in my 1991/92 Annual Report and further stated:

The Service, in an attempt to ensure that future analysis in this area is more meaningful, has undertaken to standardize both the reporting structure and statistical information gathered with respect to S.H.U. operations. I have as well been advised that it is the Service's hope that "the next report will be more detailed and of higher quality."

The second Annual Special Handling Unit Report, covering the period April, 1991 through March, 1992 was issued November 20, 1992. The Service with respect to the quality of this report has stated "that the second Annual Report while still not meeting all the expectations of the Correctional Investigator is much improved".

The quality of the report is peripheral to the central issue which is the quality of the Special Handling Unit program. Our review of this program, which has been shared with both the Deputy Commissioners of Quebec and Prairies, indicates that current operations are little more than a form of long term dissociation. Programming and employment opportunities are limited with little or no evidence of a link between the programming offered and the identified needs of the offender population being served. Restrictions on offender movements and association and staff/inmate interaction, despite the policy pronouncements, remain excessively controlled. The provision of psychiatric and psychological interventions are generally limited to assessments associated with National Review Committee decision-making with little evidence of ongoing treatment or programming related to identified needs. The data collection and analysis requirements detailed in the policy are not being met, and the National Review Committee's responsibilities in terms of monitoring and overseeing Special Handling Unit operations are not being fulfilled.

It is not our expectations which need to be met but rather the expectations of Correctional Service Canada's policy. To date the Service, despite earlier commitments, has not objectively evaluated Special Handling Unit operations and it has been three years since the policy change.

I was advised at a recent meeting with the Commissioner, that the Third Annual Special Handling Unit Report will be released shortly and it is again the Service's expectation that the report will be better. The Commissioner has as well advised that Special Handling Unit operations will be the subject of an internal audit during the course of the next year.

b) 1993-94

The Correctional Service of Canada finalized its Internal Audit Report on Special Handling Units in January of 1994. The observations detailed in the report, in large part, affirm the legitimacy of the concerns raised by this Office over the course of the last three years. The Audit Team has put forth a series of recommendations calling for:

- a thorough review and analysis of the programming offered within these Units as it relates to the identified needs of the inmate population, and
- the development of specific terms of reference for the National Review Committee to ensure more cohesiveness in the decision-making process and better monitoring of the activities in the Special Handling Units.

I am currently awaiting the comments and action plans from National Headquarters on the Audit Report. I further recommend, in conjunction with ensuring more cohesiveness in the decision-making process, that the Service specifically establish membership for the National Review Committee that reflects the requirement for objectivity and fairness in the decisions taken by this Committee.

Until such time as substantive action is taken by the Service in response to these observations and recommendations, Special Handling Unit operations will remain little more than an expensive form of long-term dissociation.

c) 1994-1995

The concerns raised on complaints by inmates with respect to Special Handling Unit operations centre on two inter-related areas:

First, the ability of the Special Handling Unit to provide employment and programming opportunities in a reasonable and timely fashion which are responsive to the specific identified needs of the inmate population served. Second, the objectivity and fairness of the National Review Committee with respect to its roles both as a decision-making body on individual cases and as the body responsible for the ongoing monitoring and analysis of the Special Handling Unit program.

To address these areas of concern the Service needs to :

- a) specifically identify and catalogue the needs of the Special Handling Unit population and ensure that the employment and programming opportunities available specifically address those identified needs;
- b) clarify the requirement that the National Review Committee, in fulfilling its responsibilities associated with the monitoring and analysis of Special Handling Unit operations, addresses specifically the effectiveness of the programming in relation to its stated objectives;
- c) ensure that the results of this monitoring and analysis are detailed in the Special Handling Unit Annual Report and that that report is produced in a timely fashion;
- d) establish a National Review Committee with a senior national presence which has and is seen to have the authority and objectivity required to carry out its functions in a fair and responsive manner; and
- e) establish in policy the requirement that the National Review Committee afford inmates the opportunity, as part of the decision-making process, to meet with the Committee.

The Service has recently committed to reducing the number of inmates housed within the Special Handling Unit and plans to centralize its operation at one institution. As such the timing would appear to be right for immediate action to be taken on the above-noted areas.

d) 1995-96 - Current Status

The long-standing concerns related to the provision of employment and programming opportunities in a timely fashion which are responsive to the identified needs of the offender population, although to date not addressed, are under examination by the Service by way of an internal audit. When we have had an opportunity to review the results of this audit, I will provide my further comments related to these areas of concern to the Commissioner.

The concerns related to objectivity and fairness have not been reasonably addressed.

With respect to the composition of the National Review Committee (N.R.C.): The N.R.C. is the decision-making authority on release or transfer of inmates from the Special Handling Unit. The Chairman of the Committee is organizationally subordinate to the decision-making authority which places offenders in the Special Handling Unit. Further the Chairman is regionally rather than nationally based, thereby being placed in the position of reviewing the decision of his immediate supervisor. Wardens of maximum security institutions, as members of the N.R.C. are taking decisions on cases that they may have

recommended for placement in the Special Handling Unit or were transferred to the Special Handling Unit by decision of their immediate supervisor. Further, given that cases transferred from the Special Handling Unit are placed in maximum security institutions, these Wardens have a direct interest in the decision being taken. In short, I continue to believe that the current composition of the National Review Committee leaves open to question the objectivity and fairness of the decisions taken.

With respect to the inmate's appearance before the National Review Committee, in terms of the significance of the decision being taken and the requirement for administrative fairness, this matter needs to be further reviewed and fully addressed by the Service.

The Service, given their decision to centralize Special Handling Unit operations at one institution, needs to identify a date for this change and ensure that the programming at that facility can meet the identified needs of those inmates to be transferred. I have specific concerns in the areas of mental health and Aboriginal programming.

2. INMATE PAY

a) 1992-93

I initially raised the issue of inmate pay in my 1988/89 Annual Report and recommended at that time that an across-the-board increase be implemented to offset the erosion of the offender's financial situation. I further noted that this erosion impacted not only on the offender's ability to purchase internally, but as well reduced the funds available on release.

I concluded last year's Annual Report by noting that the number of complaints in this area had increased, that the situation previously noted had grown progressively worse and called again for an immediate, meaningful adjustment to inmate pay levels.

Following a meeting in April of last year with the former Commissioner to review the issue of inmate pay, I wrote Mr. Ingstrup stating:

As I am sure you are aware, for many offenders it is costing them more per day for tobacco than they are earning in a day through employment. We have been advised by both offenders and staff that the situation has significantly increased tension and illicit activity within institutions.

We are also advised that more offenders are in debt to other offenders, more offenders are seeking protection as a result of being in debt, and illicit activities such as brew making, drug trafficking and loansharking are on the rise.

It is a basic economic fact that if money is not available from legitimate sources, individuals are forced to deal with or become part of a considerably less legitimate black market economy. I fear that if this situation is not immediately addressed, there will be an increase in unrest within institutions which are already suffering from the tensions of overcrowding. Consequently, I recommend that immediate action be taken to ensure that offender pay scales reasonably reflect the cost of living within the institutions.

I again, for the fifth year running, recommend that immediate action on this matter be taken.

b) 1993-94

The Correctional Service of Canada has all along been strongly in support of a pay increase and sought and received approval from Treasury Board to implement a new pay system, with an increase in pay rates for most inmates. However, in response to public resistance a decision was taken, despite the Service's expressed "sensitivity to the issue of pay for inmates", that there would be no rate increase during this fiscal year.

There has not been a meaningful adjustment to inmate pay rates for a decade. The number of complaints received by this Office related to pay and employment issues continues to increase. The associated institutional problems beyond the erosion of the inmate's purchasing power and ability to save for release are detailed in the above letter to the former Commissioner of Corrections.

A linking of the long overdue upward adjustment of inmates pay rates with the current economic situation and freeze on public service wages creates a difficult position to defend. I can only recommend that the issue be re-examined with a view to resolving the erosion of the inmates' financial situation.

c) 1994-95

There has been no thorough re-examination of this issue. I am fully aware of the considerations for "policy making in the 1990s" referenced by the Commissioner. I am also aware of the legitimacy of the concerns raised by inmates on the erosion of their financial situation over the past decade.

These concerns are two-fold. First is the impact on institutional operations. If remuneration for authorized activities is inadequate other avenues of income will obviously be found to finance day to day living. Inadequate pay levels promote and maintain an illicit underground economy within institutions.

The second area of impact is on the inmate's release. Again, if remuneration is inadequate, it is unreasonable to expect inmates to be able to save sufficient monies for their eventual release. There is no benefit to be derived from releasing inmates without adequate funds to support their reintegration.

The Service's responses on this issue over the past decade, while acknowledging the erosion of the inmate's financial situation, have shown no evidence of will to address the matter.

There is a need for an immediate across-the-board increase on inmate pay levels. There is further a need for the Service to initiate a thorough examination of the impact of inmate pay on both institutional operations and conditional release.

d) 1995-96 - Current Status

The Service has chosen not to initiate either an across-the-board increase on inmate pay levels or a thorough examination of the impact of the low levels of pay on institutional operations and conditional release. The Service further has not finalized its Treasury Board submission which was intended to increase the consistency between the inmates' level of pay and their program participation. The submission as well was to raise the daily allowance for those inmates unemployed through no fault of their own.

The areas of concern associated with the issue of Inmate Pay have not been addressed. Setting aside my long-standing recommendation concerning an increase in inmate pay, I believe there is a continuing requirement for the Service to thoroughly review the impact of current pay levels on tensions and illicit activities within institutions and the availability of inmate funds at the time of release.

I further believe that the Service needs to put into practice the intent of their Treasury Board submission, especially with regard to the raising of the daily allowance for unemployed inmates.

3. GRIEVANCE PROCEDURE

a) 1992-93

This office has long had concerns with the operation of the Correctional Service of Canada's internal grievance process. The effectiveness and credibility of any levelled redress mechanism is dependent upon a combined front end process which was capable in a participative fashion of thoroughly and objectively reviewing the issue at question, and a final level within the process which has the courage to take definitive and timely decisions on those issues referred to its attention for resolution. As I have said before, in my opinion the current difficulties with the process are related less to its structure and procedures than to the commitment and acceptance of responsibility on the part of those mandated to make the process work.

With respect to the matter of management commitment and the acceptance of responsibility in making the process work, the former Commissioner in commenting on the Service's obligation to ensure that offenders were provided with an effective avenue of redress said in February of 1990, "the timeliness of our responses will be seen - quite correctly - as a real indicator of the importance we place on resolving offender complaints".

I recommended in my 1990/91 Annual Report that the Service produce quarterly reports, regionally and nationally, on grievance decisions so as to ensure a degree of consistency in the Service's interpretation and application of its policies in response to the concerns raised by offenders.

I was advised in March of 1992 that the Service "did not support the development of separate reporting mechanisms for specific issues and that it intended to address the recommendation on a broader scale by introducing an automated reporting system which would permit identification and analysis of deficiencies which may emerge through the grievance system". The system was to be "on line by June 1, 1992" and provide Correctional Service Canada with "the capacity to detect inconsistencies in the interpretation of policies".

I was advised at a recent meeting with the Commissioner that the system is now "scheduled to be on line by the summer of 1993".

The grievance process, despite years of internal review and past commitments, displays, at the national level, little if any evidence of effective management of the system or management commitment to the system. Grievance responses continue to be delayed well beyond the prescribed time frames of the policy and the thoroughness and objectivity of the reviews undertaken in many instances is wanting. The automated reporting system has yet to come on line and as such, the process continues without the capacity to provide relevant information on its own operations or management with ongoing information capable of identifying inconsistencies concerning the interpretation and application of the Service's policies.

The *Corrections and Conditional Release Act* requires of the Service the establishment of a "procedure for fairly and expeditiously resolving offender grievances". The current procedure does not meet this requirement.

The process is anything but expeditious, with offender grievances taking up to six months to work their way through the process. The current process as well can not be seen as directed towards fair resolution; it is rather an adversarial, win-lose exercise played out on a very uneven playing field with the offender having limited input at the higher levels of the procedure.

In conjunction with the primary function as defined by the Act, the inmate grievance procedure should be seen by the Service as an invaluable management tool in identifying specific areas of concern and potential avenues of resolution; it is not. The monthly institutional and regional reports on grievances which are to be submitted to National Headquarters as per Service policy, are not being submitted and there is no evidence of monitoring or analysis of the procedure at the national level.

In conclusion on this matter, I return to my comments of 1989, that improvement in the effectiveness and credibility of this process will only happen when the senior management of the Service accepts responsibility for the operation of the procedure.

As a first step, I recommend that the Service conduct an extensive national audit on the management of the current procedure with a view to not only ensuring that the time frames and reporting requirements are met, but to as well examine the thoroughness and objectivity of the current procedure and the level of credibility it currently holds with the population it is intended to serve.

b) 1993-94

The above recommendation that the Service conduct an extensive national audit on the management of the grievance system was not acted upon.

The Service acknowledges that "certain problems" exist with the current redress system and have initiated a high levelled review process mandated to "make recommendations for a re-designed process". I agreed, given the importance this Office places on the Inmate Grievance process, to participate as an advisory member of the Steering Committee for the Redress Review Team.

Although I note that this is the third major review of the grievance process in five years, I applaud this particular initiative and am impressed with the determination of the group involved to remedy the present situation and come up with an effective solution.

In the meantime, the number of complaints received by this Office specifically related to excessively delayed processing of grievances during this reporting year have increased from 165 to 258. The number of inmates approaching our Office prior to attempting to resolve their concerns through the grievance process has doubled. Confidence in the procedure's ability to reasonably and in a timely fashion address concerns has been seriously eroded. The grievance process which I characterized last year as failing to meet the requirements of the *Corrections and Conditional Release Act* in terms of "fairly and expeditiously resolving offender grievances", has become bogged down at the Commissioner's level. Inmates are currently waiting six to eight months for responses from the Commissioner's level which by policy are to be responded to within ten working days. The Commissioner assures me however, that he is committed to finding a way to reduce the delays in response time.

c) 1994-95

The Inmate Grievance Process, despite years of internal review and past commitments, continues to show little evidence of being effectively managed.

The review process initiated in December of 1993, mandated to make specific recommendations to the Service's Senior Management for a redesigned procedure has to date produced no policy or procedural changes to the system.

The automated reporting system has yet to come on line and as such the process continues without a capacity to provide relevant information on its own operations or provide management with ongoing information capable of identifying inconsistencies concerning the interpretation and application of the Service's policies.

The Commissioner recently stated that the average number of days to respond to a third level grievance is now 50-60 days, down from 100-200 days. The policy requirement on third level responses is 10 working days. I was advised in March of 1993 that the turn around time for cases at the third level averaged 47 calendar days. In the absence of any ongoing reporting system, it is very difficult to get an accurate reading on whether any progress has been made in this area.

Without accurate ongoing information on the system's operations it cannot be reasonably managed. The first step, in advance of any policy or procedural changes, is to establish an information base for management so an evaluation can be done on the effectiveness of the current process on meeting its stated objectives.

d) 1995-96 - Current Status

The operation of the inmate grievance process needs to be given a high priority by the Service and effectively managed at all levels with specific accountability for its operation assigned to senior management.

There has been an improvement in the process' operation at the national level in the past few months, yet I have witnessed periodic improvement before over the past decade only to see the process return to a state of chaos. To effectively manage the system in addition to commitment and accountability, the Service needs to issue a clear policy statement emphasizing the principles of administrative fairness and develop an information base at all levels of the organization which allows for the measurement of the system's performance on an ongoing basis.

The direction for change must come from the top. As noted by Justice Arbour: "At present, it would seem that the admission of error is perceived as an admission of defeat by the Correctional Service. In that climate, no internal method of dispute resolution will succeed". If there is to be a change in the climate, the Commissioner needs to send a clear message indicating that the failure to admit error and take action to redress the consequences of that error is totally unacceptable and inconsistent with the Service's claimed commitment to openness, integrity and accountability.

4. CASE PREPARATION AND ACCESS TO PROGRAMMING

a) 1992-93

This issue was initially raised in my 1988/89 Annual Report and focused on the increasing inability of the Service to prepare the cases of offenders in a thorough and timely fashion for conditional release consideration. It was evident from our review at that time that a significant number of these delays were directly related to the Service being unable to provide the required mental health assessment and treatment programming in advance of the offender's scheduled parole hearing dates.

I further noted in 1990 that the continuation of this situation impacted measurably on the viability of the system's decision-making process, the efficiency and effectiveness of its existing programs, and the ability of the Service to provide equitable and just treatment to the offender population.

I concluded last year's Annual Report by stating:

although the Correctional Service has acknowledged that there are problems in these areas and has undertaken a number of initiatives designed to address them, the problems continue to exist and the Service has fallen far short of its commitments. This issue would appear to be stalled and needs immediate attention.

The above-noted commitments specific to this issue are:

- a) The implementation of an Offender Management Information System by the Fall of 1992 to alleviate gaps in management's capacity to measure the availability and timely delivery of key offender programs. The current system is not capable of providing management with this information. I am advised the revised system should be on line by the Fall of 1993.
- b) The production of Quarterly Reports on the Use of Waivers/Postponements and Reasons to commence April 1992. The Quarterly Reports were to contain an analysis of the reasons for the delays in presenting cases for conditional release consideration so as to ensure that corrective management action could be taken in a timely fashion. The first Quarterly Report was issued in December of 1992 with no identification as to the reasons for the delays. The second and third Quarterly Reports were issued in January of 1993 and although they identified a broad categorization of reasons for the delays, there was no evidence of analysis or comment as to what, if any, management action was called for to assist in reducing the numbers.

The last Quarterly Report reviewed indicated that 1400 conditional release hearings were either waived or postponed for the period October through December, 1992.

- c) The development and implementation of a Tracking System to provide management with ongoing relevant information on the impact its sex treatment programming was having on conditional release decision making and the results of the Service's efforts at ensuring that "sex offenders were provided the opportunity for assessment and treatment by the offender's parole eligibility dates".

There is no national tracking system capable of providing relevant information in this area. Sex offenders are seldom entering treatment programs in advance of their parole eligibility dates and in many instances, the offenders are fortunate to complete treatment prior to their statutory release dates.

The Quarterly Report for October through December 1992 on Waivers/Postponements shows that close to 500 delays were identified as "needs to complete/continue a treatment or training program prior to the review or hearing".

The Service acknowledges that there is a significant problem in the area of timely case preparation and access to mental health programming. The current state of the Service's information base in this area does not allow for a clear determination of the scope or specific causes of the problems or what management action or direction is needed to reasonably address the problems.

I am advised that an improved offender information system is scheduled for implementation this summer. Until such time as the Service is capable of measuring the availability and timely delivery of key offender programs, their policy development and management decisions in this area will continue to be *ad hoc* and uncoordinated. I again recommend that this issue be given immediate attention.

b) 1993-94

From our vantage point, there has been little progress made on the issues raised by timely case preparation and access to programming. The commitments made by the Service last year detailed above have not been actioned and the state of the Service's information base on this key area continues to not afford for a clear determination of either the scope or cause of the problems at hand or what management action or direction is needed to reasonably address the problems.

Specifically, the automated Offender Management System remains in a state of development; Quarterly Reports on the use of Waivers and Postponements have not been produced over the course of this reporting year, yet the Service continues to claim that timely case preparation is a priority; the development and implementation of a Tracking System designed to provide management with ongoing relevant information on the availability and impact of treatment programming in relation to conditional release decision-making has yet to happen; the level of meaningful contact between case management staff and offenders, as reported by both groups, is down; the rate of timely conditional release is on the decline; and the incarcerated population continues to increase.

I was initially advised by the Service in response to last year's Annual Report that "the national implementation of the Intake Assessment process will systematically identify those offenders requiring psychological or psychiatric intervention at the start of their sentence... and would allow the Service to schedule individual offenders based on such factors as time remaining to Parole Eligibility and total program resources... Technical complications related to Release 2 of O.M.S. make it difficult to predict when Intake Assessment will be integrated with O.M.S.... assessment cannot be implemented until early in the new fiscal year". I was later advised that the Service "anticipated that Inmate Assessment could be fully operational by as early as September 1994".

As noted in last year's report, I was advised in 1991 that "an automated Offender Management Information System designed to alleviate gaps in management's capacity to measure the availability and timely delivery of key offender programs would be implemented by the Fall of 1992".

The key to the Service meeting its primary corporate objective and effectively managing its population growth lies in the provision of timely access to programming and case preparation. More than one-third of an inmate's sentence, that period between day parole eligibility and statutory release, is discretionary time. The measurement of the Service's effectiveness in reducing the relative use of incarceration must focus on the actions taken at the front end of an inmate's sentence in preparing the case for conditional release consideration and the timing within the discretionary period that the case is presented for conditional release considerations. There is limited benefit in having cases presented for decision at the back end of the discretionary time period.

The Commissioner has made a point of advising this Office of the rapid expansion of programming launched by CSC in recent years and that increased program capacity in the areas of Substance Abuse, Living Skills and Sex Offender Treatment continues to be a priority. He further advises that the capacity to treat sex offenders has risen to almost 1800 per annum by the end of 1993/94 from less than 200 per annum in 1988. This is all well and good but the issue here is not the proliferation of programs but rather the Service's inability to reasonably measure the availability and timely delivery of key offender programs which in turn negates its responsibility to provide equitable and just treatment to the offender population.

It seems that we are keeping a lot of inmates in prison at huge costs to complete programs which could be delivered on the street. The measurement here is not the number of inmates released because eventually they all are, but at what point in their sentence they are released.

As I indicated in the Introduction, I do not believe that in the long run the solution to delay case preparation lies with the expansion of current institutional capacity or resources. The Service over the years, with the proliferation of institutional programming, has become dependent on this extended period of incarceration, between parole eligibility and statutory release, to provide programming. There appears to be a reluctance on the part of case management staff to give consideration to conditional release as an option until such time as these programs have been completed, many of which could be provided under supervision in the community. The current population increase, caused in part by offenders remaining in institutions to complete programs, has further delayed timely access to these programs which in turn extends the period of incarceration and adds to the population growth.

This cycle of dependency is unlikely to be interrupted until such time as the Service accepts and takes action on the principle that the protection of society is served through the timely re-integration of offenders as law abiding citizens. A continuation of business as usual in this area will promote further population growth and will impact measurably on the viability of the system's current decision-making processes; the efficiency and effectiveness of existing institutional programs and, the ability of the Service to provide equitable and just treatment in a responsive fashion to the inmate population.

c) 1994-95

I concur with the Commissioner, "this is a complex issue which cannot be addressed by an single simplistic solution". It is also an issue which impacts directly on the Service's ability to effectively manage the inmate population growth. It was precisely because of the complexities and importance of the relationship between access to programming, case preparation and timely conditional release consideration that I recommended a number of years ago that the Service take immediate action to ensure that it had a clear understanding of both the scope and the causes of the problems associated with delays in this areas.

The current state of the Service's information base relevant to this issue continues to not allow for a clear determination of the scope or specific causes of the problem or identify what management action or direction is needed to reasonably address the problem.

The Commissioner, in January of 1994 following a Focus Group on Accommodation Policies, directed that a review be undertaken to address the question: Why are Incarcerated Numbers Increasing? The specific areas identified for review in addressing this question were: "admissions, releases, waiver rates, National Parole Board concordance rates, paperwork backlog, requirements for release, timing of programming for release and the adequacy of community infrastructure".

I was advised earlier this year that, "for a number of reasons", information relevant to this issue, on admissions, releases, waivers, postponements and concordance rates was not available. I was as well advised that well over one thousand non-violent inmates are currently incarcerated in federal penitentiaries beyond their parole eligibility date, yet no information was provided to explain why?

This continuing lack of information needs to be attended to if the Service is going to reasonably address this issue. I suggest a starting point would be action on above-noted review directed by the Commissioner in January of 1994.

Until such time as there is substantive progress on this issue, the Service's efforts at addressing overcrowding will continue to be directed at the symptoms rather than the causes of the problem.

d) 1995-96 - Current Status

The Correctional Service, I believe, correctly identified in January of 1994 the following specific variables that needed to be specifically reviewed in order to address the areas of concern associated with the issue of Case Preparation and Access to Programming: "admissions, releases, waiver rates, National Parole Board concordance rates, paperwork backlog, requirements for release, timing of programming for release and the adequacy of community infrastructure".

I appreciate that the inter-relationship of these variables and their impact on effective case management and programming is complex. I further acknowledge that the Service has undertaken a number of initiatives over the past few years in an attempt to streamline its case management process and better match inmates and programming. I believe these initiatives have been hampered by a number of factors.

First, the Service's information base relevant to the above variables, specifically with respect to waiver rates, and the timing of programming for release, continues to be wanting. As such, it remains difficult to determine the cause of the problems with delayed conditional release or what specific management action needs to be taken. I suggest that a concerted effort, in the short term needs to be taken to specifically identify the causes of waivers and postponements of Parole Board hearings and the factors currently used in determining the timing of programming for release.

Second, the initiatives undertaken recently by the Service, such as the Offender Intake Assessment process and the revised Correctional Plan process, appear to have been introduced absent of any clear indication as to the anticipated impact of the processes or any mechanism in place to measure the impact. I note that the Service is in the process of developing performance indicators for a number of components within the case management process and I look forward to reviewing these on their completion.

Third, the Service's programming, while extensive, lacks management control and coordination. There is limited information available to either staff or inmates on the effectiveness of individual programs or the availability and accessibility of programming at other institutions or in the community. This results at times in significant decisions being taken on matters such as transfers and parole in the absence of relevant information. With regard to this area I recommend:

- that the Service initiate a process to evaluate its programming to ensure that it is in fact meeting the needs of the inmate population;
- that the results of this process be made available to the inmate population; and
- that the Service undertake a review of its overall programming to ensure that its community based programming is sufficient to meet the needs of those on or potentially on conditional release and that it as well complements and supports its institutional programming.

Fourth, the division of responsibilities between the case management officer and the correctional officer II within the Service's current organizational structure for case management activities tends to create confusion, delay and at times an absence of felt ownership and responsibility for the management of the individual case. I suggest that a review of this division of labour be undertaken to ensure that both the objectives of the Service and the interests of the offender are being met within this organizational structure.

5. DOUBLE-BUNKING

a) 1992-93

I have been commenting in my Annual Reports on the negative impact of double-bunking on the individual offender and institutional operations since 1984. In that year, there were approximately 700 federal inmates double-bunked and Canada's national newspaper ran a headline quoting the then Commissioner of Corrections stating: "Penitentiary Overcrowding Will End By Next July".

In my 1989/90 Annual Report with approximately 1000 federal inmates double-bunked, I restated my June 21, 1984 recommendation:

That the Correctional Service of Canada cease immediately their practice of double-bunking in segregation and dissociation areas.

I as well restated my specific concern with respect to the impact of double-bunking on non-general population offenders given their limited access to programming and employment opportunities and the limitations on their general movement within the institutions which results in extended periods of time being spent in the cell block area.

I was advised by the Commissioner in response to my comments that

double-bunking is not correctionally acceptable and that the Service would continue in its efforts to reduce double-bunking by preparing offenders for conditional release in a timely fashion.

In my 1990/91 Annual Report, with 1200 inmates now double-bunked, 500 of which were housed in non-general population cells, I recommended that the Service monitor, on an ongoing basis at the Regional and National level, both the number of offenders double-bunked in non-general population cells and the length of time these offenders are double-bunked.

The Correctional Service of Canada rejected this recommendation and said that the monitoring of double-bunking would be conducted "through operational reviews and the internal audit process".

In my 1991/92 Annual Report with the number of double-bunked offender now standing at 1700, I again recommended that effective, timely and practical methods of monitoring the double-bunking situation be immediately implemented.

I was advised in April of 1992 by the Service that efforts were under way to develop an offender tracking system to identify inmates who are double-bunked for any portion of their dissociation time. To date this tracking system does not exist.

In response to our request for copies of the "operational reviews" and "internal audits" on double-bunking we were advised in January of 1993 that "there has been no formal audit or operational review of this issue to date, each region has adopted a means of monitoring the use of double-bunking and reporting to N.H.Q. A national roll-up is produced monthly".

In summary on this issue:

- there is no tracking system to identify inmates who are double-bunked in non-general population cells;
- there has been no operational reviews or internal audits done on the double-bunking situation;
- regional reporting of double-bunking figures are inconsistent and at times inaccurate;
- the national roll-up and monthly reports reflect the inconsistencies and inaccuracies of the regional reporting process;
- the national double-bunking monthly report is simply a compilation of numbers with no evidence of analysis or review; and
- the number of inmates double-bunked, since the Service's commitment in 1990 to reduce these numbers "by preparing offenders for conditional release in a timely fashion" has doubled.

There are currently in excess of 2000 federal inmates double-bunked, in some instances three to a cell, which represent more than 20% of the maximum and medium security population. There is no tangible evidence that the Service has acted on my recommendation that "effective, timely and practical methods of monitoring this situation be implemented". This situation continues to demand the immediate attention of the Service, as we have seen the problem is obviously not going to go away by itself.

b) 1993-94

The number of inmates double-bunked nearly doubled between January, 1993 and January, 1994 and now stands well in excess of 3,000. The Correctional Service of Canada, as I noted in the Introduction, has moved from a position two years ago of claiming that double-bunking was "correctionally unacceptable" with a commitment to "reduce double-bunking by preparing offenders for conditional release in a timely fashion" to a current position of acknowledging double-bunking as "a regular accepted practice". There remains no evidence that the Service has taken any reasonable steps in response to my long-standing recommendation that effective, timely and practical methods of monitoring the situation be implemented. In fact, the Service has less reliable information now on double-bunking than it did a year ago because they stopped producing their National Monthly Reports in September of 1993 in anticipation of the implementation of Release 2 of the automated Offender Management System.

In May of 1993, the Service's Executive Committee agreed to form a Task Force "to examine short and long-term options to reduce double-bunking where possible and to create the most humane accommodation conditions given the current resource restraints". I was advised that the results of the Task Force would be shared with this Office. To date I have seen no results.

The Commissioner chaired a Focus Group on Accommodation Policies in January of 1994. The action plan from the Focus Group called for a Review to be undertaken, within three months, to address the question: "Why are incarcerated numbers increasing?" The areas identified for specific review were, "admissions, releases, waiver rates, National Parole Board concordance rates, paperwork backlog, requirements for work release, timing of programming for release and adequacy of community infrastructure". I look forward to receiving a copy of this Review.

The Service, in response to my specific concerns with the inhumanity of double-bunking in segregation, stated in December of 1993 that "CSC strives to avoid double-bunking in dissociation. If the Correctional Investigator identifies specific incidents where this is occurring, the Service will take prompt action to try to correct the situation". Not only have I identified specific incidents but a review of their own reports identifies fourteen maximum and medium security institutions with ongoing double-bunking in Segregation/Dissociation Units.

c) 1994-95

There are approximately five thousand federal inmates currently double-bunked in penitentiary cells initially designed to house one individual.

I am encouraged by the Commissioner's recent statement that "the Service recognizes the need to understand as fully as possible the factors contributing to population growth". I am somewhat troubled though by his comment that "experience shows that an exhaustive analysis is far more difficult than the Correctional Investigator implies".

I have never implied that an understanding or analysis of the factors contributing to population growth were easy. I did offer simply as an observation that the state of the Services existing data, or at least that data provided to this Office, does not lend itself to a reasonable analysis as to the specific causes of the excessive increase in population. The first step in moving towards meeting the need of "understanding as fully as possible the factors contributing to the population growth" have been detailed in the proceeding Issue on Program Access and Case Preparation.

On the issue of Double-Bunking, which is obviously a bi-product of excessive population growth, and more specifically on the concerns related to double-bunking in segregation, I have been advised recently that the Service "unfortunately" does not record this information any longer. This fact places at serious question both the Service's long-standing claim of concern with respect to the practice of double-bunking in non-general population cells and their commitment to effectively monitor this practice to ensure that the negative impacts are minimized.

Given the apparent ignoring of this Issue at the national level, I feel it is necessary to once again restate the obvious: **the housing of two individuals in a secure cell, designed for one individual, for up to twenty-three hours a day, for months on end, is inhumane.** This practice which continues unmonitored, defies not only any reasonable standard of decency but also the standards of international convention.

d) 1995-96 - Current Status

The Office, during the course of this year, was advised: that a study of double-bunking had been completed over the summer of 1995, which would be shared with us after the final data had been added; that a review of double-bunking was about to be undertaken in November of 1995; and that a research project on the impact of double-bunking in segregation was currently being undertaken. At the end of the reporting year, having received neither the "study" or the "review", I was advised that "a preliminary review has determined that a research project on the impact of double-bunking in segregation is not feasible at this time, and, therefore, it has not been approved as part of our research plan."

I was also advised at the same time that "work is in progress by Accountability and Performance Measurement to establish a monitoring mechanism for double-bunking ...".

I realize that I indicated in the Introduction to this report that I would refrain both from a restating of my previous position or passing further comment on the Service's responses. On this issue, I feel compelled to abandon that commitment and return to my comments of last year:

Given the apparent ignoring of the issue at the national level, I feel it is necessary to once again restate the obvious: **the housing of two individuals in a secure cell, designed for one individual, for up to twenty-three hours a day, for months on end is inhumane.** This practice which continues unmonitored defies not only any reasonable standard of decency but also the standards of international convention.

6. TEMPORARY ABSENCE PROGRAMMING

a) 1992-93

As indicated last year, the problems associated with this program were brought to the attention of the Correctional Service of Canada in June of 1989 and the details were reported in my 1990/91 Annual Report. Basically, the Correctional Service, at that time, committed to undertake a complete analysis on an institution by institution basis on the decline in temporary absences. However, in May 1991 on the basis of statistics for 1990 showing an increase in temporary absences over the previous year, and without the benefit of the complete analysis promised, the Correctional Service decided that there was no longer a problem and considered the issue closed. In March of 1992 *The Report of the Panel Appointed to Review the Temporary Absence Program for Penitentiary Inmates* (Pepino) recommended:

That CSC undertake a complete analysis on an institution by institution basis to ascertain the rates of grants of ETAs and UTAs over the last five years, to ascertain any statistical decline, and the reasons therefore. In addition, CSC should develop a comprehensive database to track variances in the rate of granting TAs and an appropriate framework for analysis on an institution by institution basis of information such as the population profile, when a TA occurs in the offender's sentence and whether a TA is completed successfully.

Shortly thereafter, in April of 1992, we were advised that the Correctional Service did not intend to spend further time examining past statistics on temporary absences, and that there were no plans to incorporate temporary absence data into the Service's Correctional Results Reports. A clear rejection of the Pepino recommendation.

I was further advised in April of 1992 that the "Correctional Service of Canada has directed the regions to monitor variations in temporary absence levels and to take remedial action as appropriate". As we continued to receive complaints in this area and it was evident from our review that temporary absence programming was continuing to decline, we asked to see the results of the regional monitoring and to be provided with a detailing of the remedial action taken. We were advised in December of 1992 that "regions do not view the monitoring of this program as a priority".

I am now advised that when the revised Offender Management System is put in place, some time this calendar year, the Service will have more detailed data on temporary absence programming at the institutional level. At that time, the Service intends to undertake a complete system-wide analysis of its temporary absence program.

In summary on this issue:

- a) the recommendation of *The Report of the Panel Appointed to Review the Temporary Absence Program for Penitentiary Inmates* (Pepino) of March 1992 concerning an institution by institution analysis has not been done;
- b) the regional monitoring of variations in temporary absence levels directed by the Service in early 1992 has not been done;
- c) the development of a comprehensive database to track variances in the rate of granting temporary absences (Pepino), has not been developed; and
- d) a complete system-wide analysis of the temporary absence program awaits the implementation of the revised Offender Management System.

I believe that the Service has been running a "smoke and mirrors" campaign around this issue for the past two years. In some institutions between 1987 and 1992 temporary absence programming has been cut in half and the disparity between regional grant rates in some cases is five to one. The Service at best can only speculate as to the reasons for these declines and this disparity.

The *Corrections and Conditional Release Act* has changed the rules of the game for temporary absence programming. Without a sound historical database and understanding of what variables influence its operation, the Service is not going to be in a position to reasonably measure the impact of the changes introduced by the Act on temporary absences.

I am of the opinion that this is an important program which directly contributes to the successful reintegration of offenders back into society and effects measurably the Service's ability to prepare cases for conditional release consideration in a timely fashion. It is a program that far too long has been neglected.

b) 1993-94

I was initially advised by the Commissioner in August of 1993, in response to last year's Annual Report, that a study was being undertaken by the Service focusing on the impact of the *Corrections and Conditional Release Act* on Temporary Absence programming.

I was subsequently informed in December of 1993 that "the obligation for monitoring the ongoing use of Temporary Absences is the responsibility of individual Wardens. Given, however, the common concern shared by both the Correctional Investigator and the Correctional Service of Canada... the Service will undertake periodic reviews at either the national or regional levels. Clearly, if information coming from any source suggests particular problems with Temporary Absences in a certain part of the system, the reviews would target those aspects".

In response to our follow-up on the matter of periodic National or Regional reviews, the Office was advised in March of 1994 that the Service had no immediate plans to initiate regional or national reviews on temporary absence programming. We were as well advised at that time that "individual institutions will continue to monitor and analyze data on TAs".

We requested of individual institutions the results of their monitoring and analysis. The responses received show little if any evidence of what would be identified as ongoing monitoring or analysis.

The Office continues to receive a significant number of complaints related to temporary absence decisions although from our discussions with the inmate population it is apparent that inmates are becoming acceptant of the declining availability of this program. For evidence of this decline one has only to review the Festive Season Temporary Absence data produced by the Service: A decade ago Christmas Temporary Absences were in excess of 1000, from 1988 through 1992, they averaged around 800, last Christmas there were fewer than 400 temporary absences granted.

On the other hand, the Commissioner advises that although they do not know why festive season Temporary Absences went down in 1993/94 that overall the total of Temporary Absences and Unescorted Temporary Absences and Work Releases increased by about 4%. We have requested that data and on receipt will examine it carefully because Temporary Absence programming has traditionally been and should continue to be a key element of the case preparation and re-integration process.

c) 1994-95

The Service has done nothing despite its previous commitments to monitor and evaluate the reasons for the decline in the use of the temporary absence programming. The past five years of non-action I fear has placed the viability of this program as an effective element of the conditional release process at serious risk.

Although I acknowledge both the Commissioner's recent apparent recognition of the fact that this Office has raised legitimate questions concerning the decline of this program and his further commitment to launch an evaluation of the temporary absence program in 1995-96, I do so with a keen awareness of the Service's past track record on this issue.

It must be recognized that the Service has no reliable data base against which to measure its current performance in this area. As such, in moving towards an "evaluation" of temporary absence programming the questions of what is meant by evaluation, what methodology is to be employed and for what purpose is the exercise being undertaken, need to be clearly addressed by the Service.

d) 1995-96 - Current Status

I am advised that an evaluation of the Service's Temporary Absence Program is currently under way which will examine the relationship between temporary absences and the granting of discretionary release, as well as post-release outcome. The expected completion date of this evaluation is April, 1996.

I look forward to reviewing the results of this evaluation which seems to have incorporated the areas of concern associated with this issue.

7. TRANSFERS

a) 1992-93

As I have indicated previously, transfer decisions are potentially the most important decisions taken by the Correctional Service of Canada during the course of an offender's period of incarceration. Whether it is a decision taken on an initial placement, a decision taken to involuntarily transfer to higher security or a decision taken on an offender initiated transfer application, such decisions affect not only the offenders' immediate access to programming and privileges, but also their potential for future favourable conditional release consideration. There are very few offenders within the federal system who over the course of a year are not affected by a transfer decision. As such, it is not surprising that once again this year, transfer decisions and the processes leading to those decisions represent the single largest category of complaint received by this office.

The Service in 1989 conducted an internal audit of its involuntary transfer process. The audit team made two observations relevant to the earlier concerns expressed by this Office. First, there was a need for increased awareness on the part of both staff and offenders as to the appropriate avenue of redress on transfer decisions. Second, there was a requirement for a more effective quality control mechanisms at the regional and national levels to ensure that the transfer process complied with established procedures and time frames for decision making.

I called in my 1990/91 Annual Report for the Service to take action on the audit team's comments concerning the establishment of an effective quality control mechanism. I as well recommended in that report that the Service through its offender grievance procedure, ensure:

- a) that the system is capable of objectively reviewing and issuing a decision on transfer appeals in a timely fashion;
- b) that during the course of its review of individual appeals that it focus not only on the decision taken, but as well, on the fairness of the process leading to that decision;
and
- c) that a quarterly report be issued summarizing the review of transfer appeals.

I was advised in March of 1992 that the Service did not support my recommendation and would rather address the issues associated with the transfer process "through the implementation of the Offender Management System in the Fall of 1992". I am now advised that "National Headquarters will be able to monitor inmate transfers directly once Release 2 of the Offender Management System is in place, some time before the end of calendar 1993".

Again, as with the Grievance Process, Case Preparation, Double-Bunking, and Temporary Absences, the Service has failed to take reasonable and timely action on a long-standing area of offender concern, in part, because it continues to await the development of an automated Offender Management System. Corrective action in these areas can no longer afford to await the constantly delayed development of this system. Management can no longer afford to use the shortcomings of this system as an excuse for not taking action.

b) 1993-94

Transfer decisions and the process leading to those decisions, as in past years, continues to represent the single largest category of complaint received by this Office and has increased over the course of this reporting year from 719 to 927.

Overcrowding has caused excessive delays in both the processing of transfer applications and the decision-making process itself. The Service's policy of shifting decision-making on voluntary intra-regional transfers from a centralized point at Regional Headquarters to the individual Wardens has further impacted on these delays and has, as well, caused significant inconsistencies in the detail of information provided to inmates in instances where the transfer is denied. The appeal process on transfer decisions at the Commissioner's level, as mentioned earlier is basically dysfunctional. The delay in the processing and actioning of decisions on intra-regional and inter-regional transfers continues to increase.

Reception Centres in all regions are double-bunked and the placement of inmates from these Units to general population institutions following the reception process, given the systemic state of over-crowding, is often delayed, which in turn delays the inmate's access to required programming.

The institutional transfer of general population inmates either laterally or downward in security level for program reasons, are in competition with reception inmates for a diminishing number of cells and their transfers are as well in many instances being excessively delayed.

In conjunction with the above, overcrowding has limited the transfer options available to the Service in response to those inmates seeking protective custody and a greater number of these inmates are as a result being double-bunked in long-term segregation units.

I was advised again by the Commissioner in December of 1993 that "regions have put in place monitoring mechanisms to satisfy the internal audit conducted in 1989. The implementation of Release 2 of the Offender Management System will allow for effective monitoring of transfers at the national level".

The 1989 audit stated that there was a requirement for a more effective quality control mechanism at the regional and national levels to ensure that the transfer process complied with established procedures and time frames for decision-making.

This Office's investigations of inmate complaints related to the transfer process has found little evidence of effective quality control and our specific requests to the regions for the results of their monitoring of the transfer process produced limited responses.

The monitoring of the transfer process at the national level continues to await the implementation of Release 2 of the Offender Management System.

c) 1994-95

Transfer decisions and the process leading to those decisions continues to represent the single largest category of complaint received by this Office. The Service's Internal Audit recommended in 1989 the requirement for an effective quality control mechanism at the regional and national levels to ensure that the transfer process complied with established procedures and time frames for decision-making.

Over the past five years, this Office has commented extensively on the inadequacies of the transfer process and has put forth numerous recommendations in support of the Audit findings in an attempt to ensure:

- a) that the system is capable of objectively reviewing and issuing a decision on transfer decisions in a timely fashion;
- b) that during the course of its review of individual appeals on those decisions, that the review focus not only on the decision taken, but as well, on the fairness of the process leading to that decision; and
- c) that a quarterly report be issued summarizing the review of transfer appeals.

The Office was advised in 1991 that the regions had acted on the recommendations of the 1989 Audit Report. We were advised in 1992 that OMS Release 2 would allow for effective monitoring of transfers at the national level and again in 1993, the Office was further advised that transfers were monitored at the institutional level. Three years of smoke and mirrors.

Last year's Annual Report concluded that our "investigation of inmate complaints related to the transfer process has found little evidence of effective quality control and our specific requests to the regions and institutions concerning their monitoring of the transfer process produced limited responses".

The Commissioner's October 1994 response advises that OMS is experiencing problems with the quality of the data being entered... and that it is expected that detailed information concerning transfers will be available during 1995.

Over the course of this reporting year, the Service has implemented additional changes to Commissioner's Directive 540 delegating further decision making authority for transfers to the institutional level, a process which I characterized in past Annual Reports as negatively impacting on both the efficiency and objectivity of the system. The Office has also witnessed, in response to excessive overcrowding, involuntary transfers to provincial institutions being authorized under exchange of service agreements, an increase in involuntary inter-regional transfer for the purpose of population management and a growing number of inmates being housed in institutions inconsistent with their security classification.

On this latter point, the Auditor General in his recent report indicated that the Service should:

- revise the Custody Rating Scale as soon as possible, using the most current data, to ensure its continuing validity;
- consider including additional factors in the scale to ensure more consistency between the inmate security classification system and the provision for accelerated parole review; and
- consider reclassifying inmates more frequently than on an annual basis and place more emphasis on the consistency between security reclassification and other risk assessment decisions such as transfers and parole.

At the time of the Auditor General's review, there were approximately 900 inmates housed in prisons with a security level higher than their individual classification. The absence of accurate up-to-date information on this situation, at the headquarters level, was viewed by the Auditor General as "a very serious problem".

The Service in response to the above, indicated that its Research Branch has been requested to undertake a study on the accuracy and application of the Custody Rating Scale, and the question of consistency or correlation between Accelerated Parole review status and individual inmates' security classification will be examined.

The Commissioner's March 1995 response with respect to the transfer process advises that "OMS provides information to allow tracking of the inmate transfer process, including the provision of information such as the type of transfer (voluntary/involuntary), date of application, reason, decision, actual date of inmate movement and the outcome of any appeals". The question is: is this information available at headquarters, is it correlated and analyzed, and what does it show?

As with the previous issues of Case Preparation, Program Access, Grievances, Double-Bunking and Temporary Absences, the Service, to address the concerns associated with these matters, needs to clearly identify specifically what they are going to do, how they intend to do it and who is responsible and accountable for getting it done.

d) 1995-96 - Current Status

Although the specific areas of concern with the Service's transfer process initially identified in 1991 have yet to be addressed, I have been advised that transfers are one of the first two areas where performance indicators are being developed. The indicators are scheduled for release in June of 1996.

The Service as well claims that the regions will establish mechanisms by April of 1996 to monitor the transfer process. These mechanisms will be designed to ensure that the transfer process complies with policy and procedure, including all aspects such as adhering to timeframes, decision-making and the appeal process. I would suggest that, although the monitoring of transfer is well placed at the regional level, it would be advisable in the short term to have national headquarters conduct a quarterly review of the results of the monitoring process so as to ensure consistency and be in a position if necessary to initiate policy direction. I would further suggest that the penitentiary placement process be incorporated into this monitoring process.

I look forward to reviewing the performance indicators and the results of the transfer monitoring process.

8. MANAGEMENT OF OFFENDER PERSONAL EFFECTS

a) 1992-93

The Service undertook a review of its policy on offender personal effects in early 1990 with the intention of developing national guidelines on the management of offender personal property.

In January of 1991, as a result of a number of concerns we had raised in the area, the Office received a copy of the Service's draft policy and guidelines which had been forwarded to the field for consultation. We met with the Service's National Headquarters staff in April of 1991 to provide our further comment on their draft policy.

I stated in my 1990/91 Annual Report that I was hopeful that this initiative would reasonably address some long-standing areas of concern such as:

- the areas of responsibility for lost or damaged personal effects in a double-bunked situation;
- the replacement value cost in the settling of offender claims; and

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- the inconsistencies in allowable personal effects which had resulted in offenders purchasing effects at one institution only to be advised at another institution that they are not allowed.

I concluded that report by stating that "although there had been some delay concerning this issue, I was advised that a revised policy, inclusive of national guidelines, is expected to be approved by October of 1991".

I concluded last year's Annual Report on this issue by stating that "as of this reporting date (May 1992), there has yet to be a policy issued on the matter". Although as of this report date (March 31, 1993), there again has yet to be a policy issued on this matter. I was advised that a draft Commissioner's Directive is due in May 1993.

b) 1993-94

I was advised by the Commissioner in August of 1993 that a Commissioner's Directive and Guidelines on this issue would be finalized by October of 1993. I was then informed in December of 1993 that the Service in accordance with Section 74 of the *Corrections and Conditional Release Act* had solicited inmate comments on the revised Directive and Guidelines. These comments had been received in early August of 1993 and a finalized Directive and Guidelines were to be sent to Executive Committee for sign-off by January, 1994.

As of the end of this reporting year (March 31, 1994) no Directive or Guidelines have been issued, although it has been rumoured that a Commissioner's Directive could possibly be published by the end of the Summer of 1994.

The Service's review of this policy began in early 1990.

c) 1994-1995

The Commissioner in March of 1995 advises that the final Commissioner's Directive and Guidelines on offender personal effects have been forwarded for his signature. Although the revised policy and guidelines address many of the initial concerns raised, difficulties continue to surface with respect to inconsistencies in allowable personal effects specifically related to computers.

I have recently been advised that the Service is continuing in its efforts to develop a policy on inmate access to computers in an attempt to "bring more consistency of practice across the country". The Service has been reviewing the matter of inmate effects and computers from a security perspective for in excess of two years. I would hope that a final decision ensuring both reasonable access and consistency on this matter will be taken in the very near future.

d) 1995-96 - Current Status

I was advised at the end of this reporting year that the policy in this area remains under development. As such, the moratorium on the purchase of hardware and software for inmate-owned computers remains in effect.

9. APPLICATION OF OFFENDER PAY POLICY FOR UNEMPLOYED INMATES

a) 1992-93

The Service in May of 1991 adjusted its pay policy in an attempt to ensure that offenders who were not able to work though no fault of their own were provided reasonable compensation. The policy re-emphasized the Warden's authority to adjust the pay levels of those offenders who were unemployed as a result of accidents, long-term illness or incapacity and those offenders unable to work because no work was available.

As I stated in last year's Annual Report, our review of complaints related to this area indicated that not only was the amended policy not being universally applied, in some instances, the institutions were not even aware of the policy change.

A further memorandum of clarification on this matter was issued from the Service's National Headquarters in December of 1992 and I am as well advised that a revised Commissioner's Directive is scheduled for promulgation in April of 1993. The delay on the part of the Service in ensuring that this policy was implemented, given the situation of the inmate pay issue commented on earlier is, I believe, unreasonable.

b) 1993-94

The Service in responding to the issue in December of 1993 stated:

There has been a long-standing understanding that \$1.60 (a day) is insufficient as an allowance for inmates who are unable to work through no fault of their own. Wardens have been advised to review all such cases regularly, and to use their discretion to increase pay rates where applicable. This is intended as an interim measure until the implementation of Commissioner's Directive 730, Inmate Program Assignment and Pay.

The number of unemployed inmates continues to rise caused in part by the increase in population and the increase in the number of inmates seeking protection and ending up in long-term segregation. The number of inmates continuing to receive \$1.60 a day does not appear to have been affected by the above statement.

Our review of complaints related to pay and employment issues, which have increased significantly over the course of this year, clearly indicates that inmates at \$1.60 a day are not being reviewed regularly for the purpose of increasing pay rates where applicable. The Office has been advised by one region that its Inmate Pay Budget cannot afford to move inmates off the \$1.60 a day pay level even if they are unemployed through no fault of their own.

It would appear, despite the Service's claimed understanding that \$1.60 a day is insufficient as an allowance, that the situation remains as I reported it three years ago.

I recommend, on this issue and in conjunction with the general issue of inmate pay, that a sufficient minimum daily allowance be established and that all inmates regardless of status receive at least that minimum daily allowance. I further recommend, given the excessive delay on this issue, that immediate action be taken.

c) 1994-95

Last year's Annual Report, in light of the agreed upon position that \$1.60 a day was an insufficient allowance specifically recommended that:

A sufficient minimum daily allowance be established and that all inmates regardless of status receive at least that minimum daily allowance.

There has been no action or comment by the Service on this recommendation.

There further appears to be a retreat on the part of the Service from its former commitment to review those inmates who are unemployed through no fault of their own for the purpose of increasing their level of pay above the \$1.60 a day mark.

The issue of unemployed inmates needs to be reviewed in conjunction with the previous issue of Inmate Pay to ensure that the Service has a coordinated and reasonable pay policy.

d) 1995-96 - Current Status

The majority of the areas of concern associated with the offender pay have been addressed within Issue # 2 Inmate Pay. One matter specific to this issue is my March, 1994 recommendation concerning the establishment of a sufficient minimum daily allowance for all inmates. This recommendation has yet to be addressed by the Service beyond advising us in December of 1995 simply that "a minimum allowance is not anticipated nor being contemplated".

I believe the introduction of a reasonable minimum allowance for all inmates regardless of their status would assist in addressing the areas of concern associated with the Inmate Pay issue. I feel the perceived benefits of pay as a motivator for inmate participation in employment or programming is outweighed by the costs of having a portion of the inmate population at a remuneration level of zero or \$1.60 a day. I further suggest as the Service moves towards a pay for program participation model the maintaining of unreasonably low remuneration levels for those who do not participate erodes the principle of informed consent, absent of coercion, regarding decisions on treatment participation.

I suggest that a review by the Service of this matter should be undertaken.

10. CRITERIA FOR HUMANITARIAN ESCORTED TEMPORARY ABSENCES

a) 1992-93

This issue as I indicated last year was initially raised with the Commissioner of Corrections in April of 1988 as a result of a number of complaints from offenders who had been denied escorted temporary absences to attend the funeral of a family member. Our investigation of these cases had clearly indicated that the cost of the temporary absence was a significant criterion, and in some cases the only criterion, considered in reaching the decision to deny the absence. We as well determined that the Service had in some instances requested money from the offenders and their families to assist in offsetting these costs.

I concluded in my 1988/89 Annual Report that the practice was without reasonable justification as it not only established a situation within which a conflict of interest was certain to develop, it further created an inequity of access for offenders to this form of temporary absence programming based on geography and finances. The Service in January of 1990 revised its policy in this area removing cost as a factor in reaching such decisions and stated that:

escorted temporary absences for humanitarian reasons shall be granted... unless significant security or case management information exists that is unfavourable to such an absence.

I acknowledged this positive policy change in my 1990/91 Annual Report and cautioned at that time given the time sensitivity of such decisions that there was a need for the Service to ensure that the policy was both understood and implemented at the institutional level. I stated in last year's Annual Report that there is really no appropriate corrective action when an error is made in this area - death and funerals are not re-schedulable - and that we were continuing to receive complaints from offenders whose absences had been denied for reasons inconsistent with the stated policy.

I have again this year received complaints from offenders where the decisions taken have been obviously inconsistent with the policy. I have reviewed this matter, and the specifics of these cases, with the current Commissioner and I recommend at this time that a clarification of this policy be issued to all Wardens by the Commissioner and that this clarification be published in the Offender Rights and Privileges Handbook scheduled for distribution this Summer.

b) 1993-94

The Commissioner was concerned with the situation and took action to reinforce the Service's policy in this area by issuing guidelines for Wardens to utilize in granting Escorted Temporary Absences for compassionate reasons.

The guidelines are clear and reasonably reflect the Service's policy. Despite continuing to receive some complaints where the decision taken is inconsistent with the policy, I accept this as inevitable and consider the issue to be resolved.

In those circumstances where we find after investigation that a decision is inconsistent with the policy, I will refer it directly to the Commissioner given the significance of such decisions to both the inmate and family members and the time sensitivity associated with such decisions.

c) 1994-95

Last year's Annual Report acknowledged that the Commissioner had taken action on this issue by issuing Guidelines to reinforce the Service's policy on Humanitarian Escorted Temporary Absences. I as well acknowledged in last year's report that the Guidelines were "clear and reasonably reflected the Service's policy", yet I accepted that it was inevitable that decisions would continue to be made inconsistent with the policy and guidelines.

I concluded last year's report by stating that decisions inconsistent with the Service's policy would be referred directly to the Commissioner. Over the course of this reporting year, a number of Humanitarian Escorted Temporary Absence decisions have been referred to the Commissioner for his review. Unfortunately, the results of those reviews have tended to be excessively delayed, defensive and non committal.

d) 1995-96 - Current Status

The Service revised its policy in 1990 removing cost as a factor in reaching decisions on humanitarian escorted temporary absences. The Commissioner in 1993 issued guidelines to assist Wardens in taking these decisions which I characterized, at the time, as clear and reasonably reflective of the Service's policy in this area.

This Office was advised in December of 1995 that proposed changes to this policy had been drafted by the Senior Deputy Commissioner which would be going forward to the Service's Executive Committee for decision in 1996. To date I have not been advised as to the specifics of the proposed changes.

11. HOSTAGE-TAKING - SASKATCHEWAN PENITENTIARY

a) 1992-93

This incident occurred on March 25, 1991 and resulted in the death of two offenders. I wrote the Commissioner of Corrections August 7, 1991, following our review of the Service's Board of Investigation Report on the incident, requesting further information on four areas detailed in their Investigation Report.

Those four areas, as I indicated last year were:

- a) the decision to use drugs as an item of negotiation;
- b) the availability of audio-visual surveillance devices;
- c) the policy of integrating protective custody offenders into the general population; and
- d) the availability of information related to a previous hostage-taking by one of the perpetrators.

I concluded last year's Annual Report stating that the Commissioner's response to these matters "was not convincing" and that further correspondence had been forwarded from this Office on April 28, 1992 indicating our dissatisfaction with the Service's earlier reply. The content of that April 28, 1992 correspondence is reproduced here:

This is further to our meeting of March 12, 1992 with specific reference to the Board of Investigation Report into the hostage-taking at Saskatchewan Penitentiary and our earlier communications on this matter.

Mr. Stewart requested in his 7 August 1991 correspondence, enclosed, comment on four general issues detailed within the Board of Investigation Report.

The first issue centred on the decision and the timing of the decision by management to use drugs as an item of negotiation and the effect of that decision, given the Board's conclusion, on the Service's long-standing policy that 'drugs shall not be given to inmates as an item of negotiation'.

Hostage-taking within a penitentiary by its very nature poses a 'real threat of death or serious assault', as such we do not understand the qualification of the policy you put forth at page one of the Commissioner's November, 1991 correspondence.

The Commissioner further states that 'the question of the use of medication and the timing of the decision in this incident are ongoing and clarification with the Deputy Commissioners and Wardens will be issued'. When are you expecting this clarification to be issued?

It is recommended, that immediate clarification on this policy matter be issued inclusive of the role of the physician in prescribing drugs during hostage-takings.

The second issue dealt with the availability of audio-visual surveillance devices.

Mr. Stewart initially questioned, given the findings of the Board that 'better use could have been made of outside technical assistance', why there was no corresponding recommendation in the report to ensure that such assistance was readily available in the future?

The Commissioner indicated that 'rarely is such equipment required on the scene' and consequently, the Board felt that management would draw their own conclusions and take corrective steps accordingly'. I fail to see the logic in this conclusion.

I would think that all institutions would be well advised to take the steps necessary to ensure that when it is required, outside technical assistance is readily available. A recommendation to this effect, to my mind, would have been more advisable than having individual management draw their own conclusions.

The third issue concerned the difficulties associated with the integration of protective custody offenders into the general population at Saskatchewan Penitentiary given the presence of an increasing number of hard core maximum-security inmates.

The Board, although indicating that the integration efforts to date had been positive cautioned that this 'is not to say that there are not problems on the horizon'. The Board as well noted the expressed dissatisfaction of both staff and inmates with the growing number of what they termed 'lunatic fringe' arriving at the institution. Mr. Stewart asked, in light of the Board's observations why the report contained no conclusive comment with respect to the Service's integration policy? The Commissioner, in his response, indicated that the Board did not feel that their mandate included the conducting of an evaluation of the Service's policy in this area.

It was not suggested that the Board of Investigation conduct an evaluation of the Service's integration policy, although a review of the Board's Convening Order and Terms of Reference does not appear to prohibit such an action. It was rather suggested, given the observations and comments of the Board, that there was a need for a review of the policy so as to bring some conclusion to an issue which had obviously raised concern on the part of both staff and offenders.

The fourth issue related to the availability of information at the institution on McDonald's previous hostage-taking at Dorchester Penitentiary.

The institution requested from National Headquarters information on how the previous hostage-taking involving McDonald had been resolved. The Commissioner indicated in his correspondence that what the institution did not have was detailed information about how the administration/crisis managers had handled the incident, how McDonald behaved during the incident, the demands that had been made, or the outcome of the incident. He further states 'that such detailed information would only be available in the inquiries conducted following the incident.'

This information may very well only be available in the inquiries conducted following such incidents but this does not answer the question of why this information is not available to those who may need it.

We have reviewed the two packages of documentation faxed to this institution during the course of the hostage-taking in response to the administration's request for information on how the previous incident involving McDonald was resolved and have the following observations:

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- a) the first package contains no relevant information on the Dorchester hostage-taking of April 1979 other than the one sentence from a report authored in Edmonton in May of 1983 which reads: 'This inmate has a history of hostage-taking at Dorchester Institution where injuries were inflicted on the hostages (staff)';
 - b) the second package appears to be information related to an incident at Millhaven Institution in May of 1980 involving inmate H.D. MacDonald not G.J. McDonald.

It would appear that not only did National Headquarters fail to provide information relevant to the institution's request, it as well provided potentially damaging misinformation on one of the participants.

The Commissioner states in his correspondence that the information which the institution did have on McDonald confirmed his 'involvement in previous hostage-takings at both Dorchester (04/79) and Millhaven Institutions (04/80)'. Would you please provide me with the specific detailings of the incident at Millhaven Institution in April of 1980 ? Would you as well please provide me with a copy of the Inquiry conducted into the incident at Dorchester in April of 1979?

It is recommended that immediate steps be taken to ensure that detailed information, inclusive of investigation reports, on past hostage-taking incidents is available, on site, to those crisis managers who may need that information.

The Board of Investigation Report into the incident is narrowly focused and inconclusive.

In conjunction with the above requests for specific information I invited any further comment the Service may have on the foregoing which will be incorporated into our final report on this matter.

A response was received from the Correctional Service of Canada June 10, 1992 providing the following information on the issues raised:

- a) the use of drugs as an item of negotiation; although the Service continued to contradict the findings of its own Board of Inquiry on this matter they stated that "the Commissioner has decided to take specific measures to address this issue... he has approved the design and implementation of a Crisis Management Training Program... one of the thrusts of this program is to provide clarification of our no deals policy".
- b) the availability of audio-visual surveillance devices; the "Crisis Management Training Program is being designed to deal specifically with issues similar to those raised during this incident and includes an extensive section on the availability and use of these and similar surveillance devices".

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- c) the policy of integrating protective custody offenders into the general population; while attempting to down play the significance of this issue the Service did state that "the Commissioner was also troubled by the concerns raised in this report and he has recently decided to launch a national review of the integration of Protective Custody inmates and the impact of policies governing this process. The findings of this review, which should be completed by January, 1993, will undoubtedly provide us with more accurate information concerning the strengths and weaknesses of our current policies, and allow us to improve our management of this process".
 - d) the availability of information related to a previous hostage-taking by one of the perpetrators; the Service continued, despite the evidence of their own Board of Inquiry, to insist that relevant information was provided in a timely fashion. Their further comments rather than clarifying the specifics of the situation raised further questions on both the relevancy of the information provided and its timeliness.

I followed-up with the Correctional Service on the commitments they had made and the further issues raised in their June, 1992 correspondence. I was advised that the Crisis Management Training Package which was to address the issues associated with "use of drugs as an item of negotiation" and "the availability of audio visual surveillance devices" had not been finalized. The national review, launched by the Commissioner, on the impact of the Service's policies governing the "integration of Protective Custody inmates", had been abandoned in favour of a "fundamental review of violence among inmates". This "fundamental review" is very narrowly focused, centering on three institutions only one of which has attempted to integrate protective custody offenders. The results of the review, which had very limited distribution within the Correctional Service, make only passing comment on the concerns associated with integration. The review itself, in my opinion, does not fulfil the undertaking given by the Service in June of 1992 to conduct a national review or provide the Service "with more accurate information concerning the strengths and weaknesses of their current policies and allow for improved management of the process". With respect to the issue of "availability of information on past hostage-takings" the Service acknowledged that the "bottom line was that information concerning one of the hostage-taker's involvement in a previous incident was not readily available to those authorities who needed it most". In response to this matter, the Service has "ordered a comprehensive review of the role of the Preventive Security function". I continue to await the results of that review and a clear indication from the Service as to how they will assure that relevant information is available in a timely fashion to those who need it.

The bottom line, two years after the incident, is that there is no tangible evidence that the Service has taken any meaningful corrective action on any of the issues raised.

During the course of this reporting year, through our contact with the surviving hostage-taker, two further issues have been raised. One centres on the subject's claim that he was physically assaulted by Service staff immediately following the incident and the second relates to the potential conflict of interest that existed when the chief negotiator during the hostage-taking incident subsequently became defence counsel for the hostage-taker. These matters have been discussed with senior officials from the Correctional Service of Canada and I am currently awaiting the results of their review.

b) 1993-94

Three years have now passed since the occurrence of this tragic incident. The Service over the course of this reporting year has offered little in the way of substantive comment on the issues raised by the incident itself and the Service's subsequent investigation.

My comments of last year regarding the quality of the investigation and the Service's actions during the two year period following the Investigation stand.

Although I do not have further information relevant to this matter, I do have a number of continuing concerns. I am concerned with:

- a) the clarity and understanding of the Service's policies related to the use of drugs as an item of negotiation and the role of outside negotiators;
- b) the absence of a comprehensive review on the issues associated with protective custody integration and institutional violence;
- c) the delayed publication of Preventive Security Standards and Guidelines; and
- d) the fact that the Service's Investigation concluded that the surviving hostage-taker suffered no injuries, when a simple review of the subject's medical file would have indicated otherwise.

On a more general and personal basis I am concerned by the approach taken by the Service in addressing this matter. It was never the intention of this Office to point fingers or cast blame. We were not there and I have no doubt that the decisions and actions taken by those responsible for the management of this incident were taken in good faith. It was our intention to cause the Service to thoroughly and objectively review those issues raised by its own Board of investigation. This never happened.

c) 1994-95

The Commissioner in commenting on this issue in March of 1995 stated; "the Service reported to the Minister on October 3, 1994 that in our opinion, the matter is closed".

This entire issue and the Service's handling of it speaks more directly to the objectivity and thoroughness of their Investigative Process than it does to the incident at Saskatchewan Penitentiary four years ago.

At the risk of belabouring this issue and in the hope that some attention can be focused on matters which continue to have relevance to Correctional Service of Canada operations, I offer the following comment on the four areas of concern initially identified.

Hostage Taking Policy

The focus on this issue was the clarity and understanding of the policy in place at the time as it related to the use of drugs as an item of negotiation and the role of outside negotiators. If the policy in these areas is clear and generally understood perhaps the Service could enunciate that policy and relate that policy to what happened at Saskatchewan Penitentiary.

Review of Institutional Violence

The focus here centred on the integration of protective custody and general population inmates. In response to concerns raised by their own Internal Investigation, the Commissioner, in mid-1992, "decided to launch a national review of the integration of Protective Custody inmates and the impact of policies governing this process". As I reported in my 1992-1993 Annual Report, this national review was abandoned without notice or explanation in favour of a "fundamental review of violence among inmates".

I further reported that same year that this "fundamental review" was narrowly focused, centering on three institutions only one of which had attempted to integrate protective custody offenders. I concluded in that same Report that the results of this review, which purposely had a very limited distribution within CSC, made at best only passing comment on the concerns associated with integration and fell far short of fulfilling the undertaking given by the Service to provide an accurate information base from which to manage the process of integration.

As a number of regions, in response to overcrowding, are initiating policies of integrating protective custody offenders into general population institutions, I believe the Service would be very well advised to return to its 1992 undertaking in this area.

Preventive Security Guidelines

This issue centred initially on the non availability of relevant Preventive Security information on one of the hostage-takers to those responsible for the onsite management of the incident. Since that time a myriad of concerns associated with the coordination, verification, communication and correction of preventive security information and the role of preventive security officers, have surfaced. The Commissioner's March 1995 response has established a "target date" of April 30, 1995 for the production of Preventive Security Standards. Whether these Standards in fact address these issues remains open.

Alleged Assault on Hostage-Taker

The Commissioner's March 1995 response states: "The Service did review a television video of the subject shortly after the incident, a photograph shown by Mr. Stewart, and comments made by the negotiator, and concluded that the subject was not assaulted following the hostage-taking.

The issue here, at this late date, is the thoroughness of the Service's Board of Investigation, which concluded that the subject "suffered no injuries", and the objectivity displayed by the Service when confronted with information to the contrary.

The referenced photograph, in the Commissioner's Response, was obtained from the subject's institutional file as was medical information provided to the Commissioner, which clearly indicated that the subject had suffered injuries consistent with an assault. Rather than address the specifics of this information, the Service has waltzed around this issue for the past two and a half years. To my mind, the music stopped playing quite some time ago - on this issue the Board of Investigation was wrong and the Service's follow-up action was at best evasive.

On the overall issue, I re-state again, it was never the intention of this Office to point fingers or cast blame, it was out intention to cause the Service to thoroughly and objectively review those issues raised by its own Board of Investigation. Quite evidently this has not happened.

d) 1995-96 - Current Status

In terms of the areas of concern raised by this 1991 incident, in some areas I continue to await the completion of the Service's actions, in others, I feel there is still specific action that needs to be taken in order to address the areas of concern.

In terms of the Service's hostage-taking policy and the use of drugs as an item of negotiation, I am advised that the matter is being re-visited.

In terms of the role of the outside negotiator, given the inconsistency of the information provided on this matter over the years, I remain of the opinion that policy clarification is required.

In terms of a review of institutional violence, I remain of the opinion that there is a need for a thorough review of the integration of protective custody inmates and the impact of the Service's policies governing that process. The current increase in the number of inmate assaults I believe speaks to this need.

In terms of Preventive Security Guidelines, I am led to believe that they are about to be published.

In terms of the alleged assault on the hostage-taker, as I have indicated in previous reports, the issue was the thoroughness of the Service's Board of Investigation, which concluded that the subject "suffered no injuries" and the objectivity displayed by the Service when confronted with information to the contrary. In terms of this incident, this area of concern is closed.

12. MENTAL INCOMPETENCE

a) 1992-93

I indicated in last year's Annual Report that the issue of representation available to offenders who lack legal capacity pursuant to various provincial statutes governing trusteeship or guardianship was raised with the Service in August of 1991. We then wrote to the Commissioner's office in October of 1991 specifically requesting information on:

- a) the measures taken to adjudge an offender's capacity to manage his own affairs when it becomes apparent to staff that a problem may exist;
- b) the offender activities to which such a determination would apply, e.g., personal finances, release planning, etc.;
- c) the steps taken by the Service to provide for personal representation, under provincial law or otherwise, when the Service determines that incapacity may exist; and
- d) the procedures undertaken when persons outside the Service inform staff that they suspect an offender could suffer from a mental incapacity.

These matters were subsequently further discussed with Correctional Service officials at meetings in January through March of 1992 at which time the Service undertook to conduct a review of the concerns related to these matters.

I am now advised, as of March 1993 that "discussions with the Correctional Investigator's office will be undertaken to better understand the nature of the Correctional Investigator's concerns related to this issue, its magnitude, and what procedures CSC could adopt to strengthen the current process, aside from usual good case management practices". I look forward to the initiation of these discussions.

b) 1993-94

I was advised in December of 1993, without the Service having fulfilled its undertaking of March, 1993 to hold further discussions with this Office, that "The procedures for mental incompetence remain a provincial matter and vary significantly within each province. CSC is not in a position to consider a national policy until such a time that a uniform Mental Health Act is enacted, however, this is unlikely to occur in the foreseeable future".

I do not agree the Service's position on this matter. I would have thought that the absence of national direction in this area, the level of mental health problems evident in federal penitentiaries and the fact that uniformity via a National Mental Health Act is not likely in the foreseeable future would be reasons for the Service to develop a national policy in this area.

c) 1994-95

Substantial progress has been made over the course of this reporting year in both focusing the areas of concern associated with this issue and establishing future direction in addressing these matters. The Commissioner's March 1995 response in part stated:

The issue of incompetence and its repercussions has been listed as an ongoing concern by the Correctional Investigator. Part of the reason for this is that it is identified as a general concern, which may include several issues. It pertains to the legal definition of incompetence, as defined by provincial status, and, in the broader sense, the large number of offenders who, while legally competent, are not able to cope successfully with daily life.

As the issue of mental incompetence and adult guardianship are provincial matters guided by complicated and widely varying provincial statutes, there is no simple way to ensure a consistent approach across CSC. There is no uniform approach to mental health in Canada, despite the existence of a draft Uniform Mental Health Act.

The concerns raised may, however, include those offenders who, while legally competent, are not able to manage their daily affairs. For these offenders, CSC has a long-term plan as part of its Mental Health Strategy. As part of the Corporate Operational Plan, the Service plans to build or convert up to 6% of its cell space for the mentally disordered offender. The primary aim of these units is to provide the type of care and assistance outlined in the Correctional Investigator's report.

This Office has recently corresponded with the Correctional Service to further establish specific areas of further consultation and we look forward to a cooperative approach in addressing this difficult yet important Issue.

d) 1995-96 - Current Status

I am advised that the Service has held a number of internal reviews on this issue. I have undertaken to contact the Service's Corporate Advisor, Health Care to ensure that we are fully advised as to the actions taken by the Service. I look forward to working with the Service in attempting to address the areas of concern associated with this issue.

13. OFFICER IDENTIFICATION

a) 1992-93

The matter of officer identification was a key issue throughout the course of the Archambault Inquiry conducted by this Office in 1984 and a matter that has never been completely settled. I noted in my 1988/89 Annual Report concern that "many staff members were neglecting or refusing to wear their identification badges while on duty."

I wrote the Commissioner in April of 1989 putting forth the position that in this day and age it is totally unacceptable for a public servant, especially a public servant designated as a peace officer, not to be identifiable to the public they serve. I was subsequently advised that the Service had reviewed the issue and taken a decision that where name tags were not being worn they would be introduced upon the issuing of the new Correctional Service of Canada uniforms scheduled for introduction between June and October of 1992. I stated in my 1990/91 Annual Report that I could "not accept as reasonable a further eighteen-month delay in implementing a basic policy decision on an issue initially raised in early 1989."

I am now advised that the new uniforms are expected to be issued by July 1, 1993 and that "Executive Committee members confirmed that, as uniforms are issued, all employees (uniformed and non-uniformed) in institutions will be required to wear name tags." The unreasonable eighteen-month delay, previously noted, is now a thirty-month delay on an issue raised in early 1989.

b) 1993-94

A decision was taken by the Service's Executive Committee in May of 1993 that all institutional staff whether uniformed or non-uniformed would be required to wear name tags effective July 1, 1993. Hopefully the matter is resolved.

c) 1994-95

A visit to any number of federal penitentiaries provides clear evidence that the policy on the wearing of name tags is not consistently enforced. I therefore recommend that the Commissioner issue a direction on this issue to ensure consistent application of the Service's policy.

d) 1995-96 - Current Status

I have been advised that the Commissioner has again reviewed the issue of the wearing of name tags with the Service's Executive Committee at a meeting in January 1996. Responsibility for ensuring that the policy is enforced has been vested with the Wardens and Regional Deputy Commissioners.

I consider, from a policy perspective, this issue closed.

14. DISCIPLINARY COURT DECISION

a) 1992-93

We were contacted during the course of this reporting year by an offender concerning a minor disciplinary court decision and fine. The subject was charged with "wilfully or negligently damaging the property of Her Majesty or the property of another person". The charge stemmed from an incident where the subject after having been provided with a copy of his psychological report to read and sign, wrote on the report his objections to what he felt were inaccuracies and untruths. He was convicted in minor disciplinary court and fined twenty-five dollars. In contacting this office he claimed he had attempted at his hearing to provide an explanation for his action but the chairperson had refused to hear him out.

As part of our investigation of this matter we requested a copy of the minor disciplinary court hearing record. We were advised that the institution did not maintain records of such hearings. I raise this point here because the Service in January of 1990 following a recommendation from this Office in 1988 issued an interim instruction stating that basic information concerning minor court proceedings be recorded via electronic or any other means and retained for a period of two years. The Service officially amended its policy by issuing a revised Commissioner's Directive in August of 1990. The offence at question took place in the fall of 1991.

Relevant to this matter I concluded my 1990/91 Annual Report by stating:

I reported last year that it was quite evident during the time period between the issuing of the interim instruction and the Directive that the communication of the policy change to the institutional level was considerably less than universal. During the course of this reporting year our review of complaints relating to minor disciplinary decisions has indicated that although the policy appears to be known at the institutional level, there exists a wide variance on the quality and content of the records maintained. This inconsistency obviously has an effect on the review of offender complaints on minor court decisions, whether undertaken by the Service's grievance process or this Office and as such, I suggest that the Regional Operational Review process include an analysis of minor court records as an element of its review.

To the best of my knowledge no Regional Operational Reviews have been undertaken in this area.

With respect to the specific complaint at issue, our review raised serious questions as to the legitimacy of the charge and conviction as well as the appropriateness of the fine levied.

The Service has a responsibility "to ensure that offenders are provided with all relevant information in a timely and meaningful manner" which affects the management of their case. This is why the report in question was being shared with the offender. The Service as well has a responsibility to ensure that information contained in its reports is accurate and complete and to provide an avenue through which offender requests for corrections can be made. There is no evidence available to suggest that the subject was advised either prior to his writing on the report or after he started writing on the report as to the proper avenue through which to request corrections.

The fine of twenty-five dollars, was to my mind excessive, representing in excess of one week's wages, and was further inconsistent with the Service's stated purpose of the disciplinary process which is to "be first and foremost corrective" in nature.

This matter was reviewed with both the Warden and the Regional Deputy Commissioner in an attempt to find a resolution. Both officials maintained support for the initial conviction and fine. We wrote National Headquarters on May of 1992 detailing our areas of concern, indicating the matter had been thoroughly reviewed with both the Warden and Regional Deputy Commissioner and requested a further review. We received correspondence from the Assistant Commissioner, Executive Services in June of 1992 advising that he had reviewed our previous correspondence with the Warden and Regional Deputy Commissioner and he supported their position. He further suggested that if we had any further questions regarding the matter we should raise them directly with the Warden and Deputy Commissioner.

I wrote the Commissioner, following our further review of the matter, indicating that in my opinion the charge was unjustified, the conviction unwarranted and the penalty excessive. I further noted the fact that the institution, contrary to the Service's policy and my earlier comments and recommendation, did not have a record of the disciplinary hearing in question.

The Commissioner's response failed to pass reasonable comment or show evidence of a thorough review on any of the issues raised. Following further discussions on this matter with the Commissioner's office we were advised by the Assistant Commissioner, Executive Services, in March of this year that: "I have reviewed the case with everyone concerned. There is no question the fine is heavy. However, the Warden carefully considered the case before making his decision. I support his decision and will not recommend re-opening the case."

Setting aside the issues surrounding the legitimacy of the charge and conviction which have yet to be addressed by the Service, the decision at question was not taken by the Warden, it was taken by a Unit Manager, and careful consideration could hardly have been given by the Warden after the fact because the Service failed to maintain a record of the disciplinary hearing. With respect to having "reviewed the case with everyone concerned" to the best of my knowledge, the inmate was never consulted during the referenced review.

In my opinion the Correctional Service Canada has failed to objectively and reasonably address the issues raised by this case; specifically the legitimacy of the charge itself, the severity of the penalty imposed and the non-maintenance of minor court records contrary to their existing policy. My recommendation that the conviction be quashed and the subject reimbursed his twenty-five dollars has been rejected.

b) 1993-94

The Service has passed no comment on my observations of last year concerning its failure to maintain records of disciplinary hearings.

Section 33(1) of the *Regulations to the Corrections and Conditional Release Act* reads:

The Service shall ensure that all hearings of disciplinary offences are recorded in such a manner as to make a full review of any hearing possible.

Despite the Regulations, this Office's past comments and the Service's 1990 commitment to ensure that a record of all disciplinary hearings was maintained, this Office continues to encounter cases where an adequate disciplinary record has not been produced and maintained. I therefore recommend that the Service take immediate steps to ensure that all hearings of disciplinary offences are recorded in such a manner as to make a full review of any hearing possible. I further recommend that the Service initiate an Audit of their current disciplinary policies and practices, including those related to punitive dissociation, to ensure that they are in compliance with the provisions of the Act and Regulations.

c) 1994-95

The Office was advised in October of 1994 by the Commissioner that Wardens had again been reminded of the requirement to maintain a record of disciplinary hearings.

I recommended last year in response to the increasing number of complaints related to the disciplinary process that:

The Service initiate an audit of their current disciplinary policies and practices, including those related to punitive dissociation, to ensure that they were in compliance with the provisions of the Act and Regulations.

I was advised by the Service in October of 1994 that "a review of the disciplinary process as it related to the regulations is currently being conducted. A report of the findings is expected by October." I have never seen the results of this review.

I was later advised by the Commissioner that a "full scale audit of the process was done in 1992". The Commissioner further stated that it was decided in "December, 1993 that a further review of this function, including examination of the regulations should await use of the process under the CCRA".

This Office has not been able to locate the referenced "full scale audit" and I note that the *Corrections and Conditional Release Act* was enacted thirty months ago.

The bottom line on this issue is the Service has taken no action on my recommendation from last year.

d) 1995-96 - Current Status

I am advised that the Service is finalizing an audit on Inmate Discipline. This Office was consulted during the preparation phase of the audit to ensure that the areas of concern associated with my March, 1994 recommendation were given consideration.

I look forward to reviewing the audit report and I will forward to the Service the results of our review.

15. USE OF FORCE - INVESTIGATIONS AND FOLLOW UP

a) 1992-93

The Service's policy in this area as detailed in the Commissioner's Directive defines use of force as:

the physical constraint of inmates by means of physical handling, restraint equipment, chemical agents, authorized spray irritants, batons, water hoses, patrol dogs and firearms.

This same Directives states that:

following an incident where force has been used, an investigation shall normally be ordered by the institutional head or other designated authority.

We noted during the course of reviewing complaints related to the use of force that the Service was not consistently conducting investigations as called for by their policy. We as well noted, that even in those instances where investigations were undertaken, there was seldom evidence that the investigating officer had contacted the inmates affected by the use of force or that the recommendations emanating from the investigations had been reviewed and actioned by senior management.

The Service has a responsibility to ensure that use of force incidents are thoroughly and objectively investigated and that corrective action where necessary is implemented in a timely fashion. This matter has been reviewed with senior correctional officials at both the regional and national level and I am advised that amendments to the Service's Security Manual are being proposed. I recommend that amendments ensuring that all use of force incidents are investigated and that those investigations include input from the inmates affected would be best placed within the Commissioner's Directive. I further recommend that the Directive clearly detail senior management's responsibilities in ensuring that investigative reports are thorough and objective and that corrective follow-up action including coordination and analysis at the regional and national level is undertaken in a timely fashion.

b) 1993-94

The Service in response to my recommendation that: "All use of force incidents be investigated and that those investigations include input from the inmates affected", initiated a number of policy and procedural changes in the Fall of 1993:

- Commissioner's Directive 605 Use of Force was amended to read: Following an incident where force has been used, an investigation shall be ordered by the institutional head or other designated authority.

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- the Service's Use of Force Report was amended to include a section where the inmate could indicate whether or not they wished to make representation to the Warden, and
 - the Service's Security Manual was amended indicating that the Warden's review of the amended Use of Force Report in instances of routine use of force would constitute the required investigation.

Unfortunately, the effect of all this amending has not solved the problem. The amendment to the Security Manual defining the Warden's review of the Use of Force Report as constituting an "investigation" in instances of routine use of force has basically negated the amendment to the Commissioner's Directive calling for an investigation in all cases where force has been used. Virtually all use of force is now being identified as routine. In addition to this, the amended Use of Force Report is not being used, as such there is no evidence to indicate that inmates are being advised that they can make representations, and we have seen little if any evidence that the Warden's review prior to the determination that the use of force was routine included a consideration of the comments of those inmates affected.

This series of policy amendments, whether intended or not, has done nothing more than entrench past practices in current policy. I do not believe that the Warden's review of the Use of Force Report, amended or otherwise, constitutes an investigation. I further do not believe that the use of force should be approached or characterized as a routine event. I therefore restate my recommendation that all use of force incidents be thoroughly investigated and that those investigations include input from those inmates affected.

The Service has not addressed my further recommendation in this area concerning management responsibility, as such I recommend again that the Directive clearly detail senior management's responsibilities in ensuring that investigative reports are thorough and objective and that corrective follow-up action including coordination and analysis at the regional and national level is undertaken in a timely fashion.

c) 1994-95

Last year's Annual Report re-stated the previous year's recommendation that all use of force incidents be thoroughly investigated and that those investigations include input from those inmates affected.

This recommendation was re-stated because the series of amendments offered by CSC the previous year failed to address this Office's observations of two years ago: "that the Service was not consistently conducting investigations as called for by existing policy and in those instances where an investigation was undertaken there was seldom evidence that the inmates affected were interviewed or that the observations and recommendations emanating from the investigation had been reviewed or actioned by senior management".

The Service in responding to the issue in March of 1995 stated:

We do not share the view of the Correctional Investigator that an investigation, as described by section 19 of the CCRA, is necessary in every instance of the use of force. These investigations are costly and time consuming.

In two years of commenting on this issue, the Annual Report has never put forth the position that use of force incidents must be investigated as described by section 19 of the *Corrections and Conditional Release Act*. In fact, section 19 of the *Corrections and Conditional Release Act* has never been referenced by this Office in terms of use of force investigations. As such, I am at a loss to understand what it is that the Service is referring to or understand the rationale put forth in support of their position.

The Service's response goes on to say "that more and more investigations are being conducted at the informal level following the use of force". I have no idea what constitutes an "informal level of investigation" but I do know that it was the absence of a formal structure within CSC's review of use of force incidents that led to this Office's initial observations and recommendations in this area.

Recent correspondence has again been forwarded to the Commissioner providing further examples of inconsistencies in the Service's management and reporting of these incidents.

In order to reasonably address the concerns raised by this issue, the Service must ensure that:

- all use of force incidents are thoroughly and objectively investigated, inclusive of input from those inmates affected;
- management is responsible for reviewing the reports and ensuring that corrective follow-up action is taken; and
- an information base is maintained regionally and nationally on use of force incidents, type of force used, circumstances, number of injuries, etc., for the purpose of review and analysis to ensure that such incidents are kept to a minimum. (How many use of force incidents occur over the course of a year?).

I fail to understand the continuing reluctance of the Service to ensure that use of force incidents are thoroughly and objectively investigated.

d) 1995-96 - Current Status

The Service recently in response to the areas of concern associated with the use of force stated that investigations need to "be thorough and comprehensive with an examination to ensure all required reports have been completed and procedures followed as outlined in the Service's policy".

The Service also agrees that procedures need to be in place to monitor and review the quality and timeliness of investigation reports on use of force and ensure corrective action is taken where warranted but provides no detailing as to how or by whom this will be done.

The Service further acknowledges that no meaningful analysis is currently being done on the data collected and proposes that data on the use of force be monitored by National Headquarters on a monthly basis and meaningful analysis of the data be conducted by the regions on a quarterly basis, but again no detailing as to how or when this monitoring and analysis is going to be done.

I suggest there is a need for further information from the Service on this issue.

16. INMATE INJURIES

a) 1992-93

The *Corrections and Conditional Release Act* requires that the Service take all reasonable steps to ensure that the "living and working conditions of inmates are healthful and safe." During the course of our investigations into concerns related to inmate injuries it became evident that across the Service, the reporting and investigation of inmate injuries was inconsistent and uncoordinated.

The Report of Inmate Injury form, which we were initially advised "was completed in all cases of injury", was found to be used infrequently in cases of injury other than those related to employment activities.

There was further, little evidence of review and coordination of these reports, when they were completed, at either the institutional or regional levels. Our concerns in this area were reviewed with the Service's National Headquarters' staff in May of 1992.

I have recently been advised that the Service has initiated a number of activities to address this matter including a proposal to develop a "separate Commissioner's Directive on the recording and reporting of offender injuries to provide a clear national framework and expectations on actions to be taken when an inmate incurs an injury whatever the circumstances might be that led to that injury."

I recommend that the Service give this issue priority and I support the development of a separate Directive on Inmate Injuries to ensure that the inconsistencies and lack of coordination of the past are avoided.

On a related matter, the *Corrections and Conditional Release Act* at section 19(1) requires that:

Where an inmate dies or suffers serious bodily injury, the Service shall, whether or not there is an investigation under section 20, forthwith investigate the matter and report thereon to the Commissioner or to a person designated by the Commissioner.

Section 19(2) further requires that:

The Service shall give the Correctional Investigator, as defined in Part III, a copy of its report referred to in subsection (1).

The Service, despite numerous requests, has yet to provide a working definition of what constitutes "serious bodily injury." The Act came into force November 1, 1992 and to date I have not received any investigative reports from the Commissioner related to inmates who have suffered "serious bodily injury." In fact to date I have not received any reports as required by section 19 of the Act.

I therefore recommend that the Service take immediate action to ensure that all investigative reports, inclusive of the Commissioner's comments, called for by Section 19 of the *Corrections and Conditional Release Act*, are forwarded to my attention in a timely fashion.

b) 1993-94

I was initially advised in August of 1993, in response to my recommendation supporting the development of a separate Commissioner's Directive on Inmate Injuries to ensure that the inconsistencies and lack of coordination of the past were avoided, that a revised Directive would be issued by the end of December, 1993. I received a draft Directive on the Reporting and Recording of Inmate Injuries in the Fall of 1993 and our comments were provided to the Service. The Office was later advised that a "new draft will be distributed for comment before the end of the year". As of this reporting date, no Commissioner's Directive on Inmate Injuries has been issued.

With respect to the related matter of the Service's responsibilities under section 19 of the *Corrections and Conditional Release Act*;

- the working definition of what constitutes "serious bodily injury" remains under development,
- all incidents resulting in serious bodily injury, as defined by any reasonable person, are not being investigated as per the requirements of s. 19, and
- the quality of those investigations which this Office has received are in far too many instances inadequate.

I am advised that the Service will initiate a review of its investigative process in the near future and I am in total support of this initiative.

c) 1994-95

The central areas of concern associated with this Issue continue to focus on the Service's investigative process and their responsibilities pursuant to Section 19 of the *Corrections and Conditional Release Act*. Last year's Annual Report stated in part:

- all incidents resulting in serious bodily injury, as defined by any reasonable person, are not being investigated as per the requirements of s.19; and
- the quality of those investigations which this Office has received are in far too many instances inadequate.

I am advised that the Service will initiate a review of its investigative process in the near future and I am in total support of this initiative".

The Service's Interim Instruction on Recording and Reporting of Inmate Injuries, issued in July of 1994, provided a definition of serious bodily injury, yet this Office continues to find instances resulting in injuries which would reasonably appear to fall within this definition which are not being investigated pursuant to s.19.

The Interim Instruction as well states that "a copy of the investigation report, together with the response to any recommendations, shall be forwarded through the Deputy Commissioner of the region or the Commissioner to the Correctional Investigator". The Office continues to receive the vast majority of s.19 Investigation Reports absent of any response from the convening authority on the report's recommendations.

To address these areas of concern, there is a need for a clarification of the Service's Interim Instruction to ensure that all instances resulting in death or serious bodily injury are investigated as per the requirements of s. 19 of the *Corrections and Conditional Release Act* and that the investigative reports forwarded to this Office are complete. The Service further needs to ensure that its investigative process, besides being thorough and objective, has at both the regional and national level, the capacity to correlate, analyze and follow up on the results of its investigations in a timely and responsive fashion.

With respect to the Service's review of its investigative process, I was recently advised that a final report has been submitted and that most of 71 recommendations contained in the report have been accepted. I look forward to reviewing the policy and procedural changes which flow from these recommendations.

d) 1995-96 - Current Status

The difficulty specific to the matter of compliance with s. 19 of the *Corrections and Conditional Release Act* does not lie with the definition of serious bodily injury. I believe the difficulty lies in the understanding of the requirements of the Act and the failure of the Service's policy to reasonably reflect those requirements. As such, the Service continues to not be in compliance with s. 19.

The Service's response on the Issue of Inmate Injuries does not address this matter nor does it address a host of other areas of concern associated with investigations. Given this Office's comments in previous Reports and the focusing of the Arbour Commission on the Service's investigative process, I will be meeting with the Commissioner in the very near future in an attempt to clarify what I see as those areas related to investigations that need to be addressed.

17. VISITS TO DISSOCIATION AND DELEGATION

a) 1992-93

The Service in November of 1991 amended the Commissioner's Directive on Dissociation to require the Warden or the Deputy Warden or a person acting in those respective positions to visit the Dissociation area daily and to visit any dissociated inmate upon request by the inmate. During the course of our institutional visits and review of complaints related to Dissociation it was noted that at a number of institutions these visits were not taking place. Following our review of this matter at the institutional and regional levels and having received no consistent assurance of adherence to the policy I wrote the Commissioner of Corrections on August 17, 1992 stating in part "our review of institutional dissociation practices has clearly shown that Wardens or Deputy Wardens are not visiting the area on a daily basis." I requested the Commissioner's comments on the matter and recommended that clarification of this policy requirement be issued.

On November 1, 1992 the *Corrections and Conditional Release Act* became law. The Act at section 36(2) reads:

The institutional head shall visit the administrative segregation area at least once every day and meet with individual inmates on request.

This performance of duty assigned to the "institutional head" can be delegated to a staff member who is designated by name or position in institutional Standing Orders or Commissioner's Directives. The delegation instrument must be readily accessible to the inmate population.

The Correctional Service of Canada issued revised Commissioner's Directives dated November 1, 1992, coincidental with the coming into force of the Act. With respect to the matter of staff visits to Dissociation areas this Directive maintained the previous requirement of daily visits by the Warden or Deputy Warden. There was no provision for further delegation of this duty.

On December 10, 1992, I finally received a response from the Acting Commissioner to my August 17 correspondence which indicated that he was personally opposed to the policy in question and intended to raise the issue at the Services' Executive Committee meeting in January of 1993 with a proposal to delegate the performance of this function to a lower level. The Acting Commissioner concluded by stating; "Given this approach I am not prepared to instruct Wardens at this time to strictly adhere to our previous decision."

This response was totally unacceptable and the matter was further reviewed with the Acting Commissioner. I subsequently received correspondence dated February 11, 1993 stating:

By Executive Committee decision we have delegated the authority in that Deputy Wardens, Assistant Wardens or Unit Managers will make daily visits. The relevant Commissioner's Directive is being amended to be completed within the next month.

Let me be clear, however, on where we stand today. We took the decision at the January executive Committee. The decision is to take effect immediately and Regional Deputy Commissioners were to inform their Wardens.

The Service's practice in terms of staff visits to Dissociation Areas has been in violation of its nationally stated policy since November of 1991. I notified the Commissioner of the existence of this violation in August of 1992 and the Service took no reasonable corrective action. The Service has been in violation of Section 36(2) of the *Corrections and Conditional Release Act* since November 1, 1992. The "Executive Committee decision" of January 1993 does not constitute a delegation as per section 6 of the Regulations to the Act. The Commissioner's Directive referenced in the Acting Commissioner's correspondence of February 11, 1993 has not been amended. In summary, the Service has knowingly been in violation of its own policy since November of 1991 and the *Corrections and Conditional Release Act* since November 1, 1992 and to date taken no corrective action.

With respect to the level of delegation, I am of the opinion that to move below the level of Deputy Warden is to negate the intent of Section 36 of the Act, which is to provide offenders with reasonable access to a senior official, who is not part of the regular routine and management of the area, to ensure that timely and effective action can be taken on concerns raised by segregated offenders. As such I recommend that the existing policy be maintained and implemented.

b) 1993-94

The *Corrections and Conditional Release Act*, and before its coming into force, the Commissioner's Directive required that the Warden or Deputy Warden visit the administrative segregation area at least once every day and meet with individual inmates on request.

The Service has passed no comment on my observations that they knowingly operated in violation of their own policy (from November, 1991) and the Act (from November, 1992) and took no corrective action until June of 1993.

In June of 1993, the action taken by the Service was to delegate the responsibility for daily visits to the segregation area to the level of Unit Manager. The Commissioner in commenting on the delegation issue stated "that the Executive Committee's decision was to delegate responsibility for visiting dissociation units to a senior manager level. The directive states that this level shall not normally be below the level of Unit Manager". With all due respect to Unit Managers, they are not senior managers. Unit Managers are responsible for the day to day operation of a unit, and the segregation area would be part of that unit. The intent of the legislation was to have a senior manager, not directly responsible for the day to day operation of the area, present and available to the inmate population.

Segregation populations continue to increase, inmates are double-bunked, sometimes triple-bunked, the requirements for showers and daily exercise are not always being met, the required written psychological opinions on long-term segregation cases are not routinely being done and complaints to this Office concerning segregation conditions and reasons for placement continue to increase. The area requires the daily presence of senior management.

The Warden has the authority to place offenders in segregation, maintain them in segregation or release them from segregation and the authority to facilitate transfers from the institution to alleviate long-term segregation.

Consequently he or the Deputy Warden should be the official to attend daily in segregation and be available to meet with inmates housed there. To delegate to a lesser official negates the intent of section 36 of the Act.

c) 1994-95

The Commissioner issued an instruction relevant to this matter December 22, 1994 which reads in part:

I expect Wardens and Deputy Wardens to visit the segregation area at least once a week, unless there are convincing reasons to the contrary. I expect this to be a full visit to include, as a minimum, an inspection of the area, review of logs, meeting with staff, and making oneself available to inmates. I would ask Deputy Commissioners to join me in checking the log when we are visiting institutions to confirm that this is happening. This does not obviate the requirement for a daily visit by a Unit Manager as the CD requires.

In a year's time, I will re-address this matter and, if it remains a troublesome issue, the CD will be changed.

This is a positive direction. The objective of this Office was to ensure the ongoing presence of senior management, as called for by the Act, in the segregation area. The question now is, will the direction be complied with and will the presence of senior management in the segregation area assist in alleviating those areas of concern associated with segregation? In this regard, I am encouraged by the fact that the Commissioner has undertaken to re-address this matter in a year's time.

d) 1995-96 - Current Status

Recent correspondence from the Commissioner provided me with the results of the Service's review of this issue which indicates overall compliance with the policy change of December 22, 1994.

As I have previously indicated, this Office's objective was to ensure the ongoing presence of senior management, as called for by the Act, in the segregation area. I consider this issue, from a policy perspective, closed.

CONCLUSION

This has been an eventful and at times painful year for federal corrections which has provided for all of us both an opportunity and a clear direction for change.

A similar opportunity, although less painful, was provided in November of 1992 with the proclamation of the *Corrections and Conditional Release Act*. I anticipate, given the events of this year, that there will be a refocusing on the provisions of this legislation. I concluded my 1992-93 Annual Report following the coming into force of the Act with the following commentary:

This legislation has clarified procedural and administrative fairness requirements in many of the areas presented above and has tied these requirements to a detailed statement of "Principles" designed to guide the Service's actions.

The legislation, as I indicated in the Introduction to this report, has as well clarified the mandate and function of this office and established an increased onus on us to advise the Minister of offender related problems which are not addressed by the Correctional Service in a timely and reasonable fashion. The effective meeting of our mandate to a great extent is dependent upon the willingness of the Service, at all levels, to undertake a thorough, timely and objective review of matters referred by this Office.

While the level of co-operation at the institutional and regional level, for the most part, has been encouraging the responses at the national level are often excessively delayed, defensive and non-committal. I am hopeful that as the appreciation and understanding of the legislation increases all parties involved in the correctional process will accept their responsibility in ensuring that offender concerns are addressed in a thorough, timely and objective fashion.

I remain hopeful. I also look forward to the coming year and the obvious challenges it will present. I am confident, as I indicated in the introduction, that the resolution of the issues detailed in this report are achievable and I am prepared to continue to work with the Commissioner of Corrections in an open and co-operative fashion in order to assist in addressing areas of inmate concern.

February 7, 1996

OVERVIEW: 1994-95 ANNUAL REPORT ISSUES

This is a brief detailing of the current status of Annual Report Issues 1994-95 subsequent to this Office's receipt of CSC's response of August 1995.

We have had two "business meetings" with the Senior Deputy Commissioner and his staff; October 18, 1995 and December 6, 1995. We have further had a meeting with the Senior Deputy Commissioner January 25, 1996 to review a number of individual cases. These cases will not be referenced in this memorandum and will be dealt with under separate cover.

Attached as Annexes to this Overview:

- A) August 21, 1995 CSC response to 1994-95 Annual Report.*
- B) Minutes of October 18, 1995 meeting with Senior Deputy Commissioner.*
- C) Minutes of December 6, 1995 meeting with Senior Deputy Commissioner.*
- D) CSC Executive Committee Summary of Decisions November 21 and 22, 1995.*
- E) CSC Executive Committee Summary of Decisions (Conference call December 19, 1995).*
- F) Letter of December 14, 1995 from Senior Deputy Commissioner re: Use of Force and Serious Bodily Injury (s. 19 CCRA).*
- G) Memorandum Deputy Solicitor General to Solicitor General dated August 21, 1995; Subject: Correctional Investigator's Annual Report 1994-95.*
- H) Correspondence Chairman NPB to Commissioner CSC dated June 16, 1995 re: UTA Delegation to CSC.*

1. Special Handling Units

First, a word on the Service's SHU Report covering the time period April 1994 to March 1995. We received a draft copy of the Report in August of 1995 with assurance that the final report would be available "shortly". The draft Report was reviewed at that time with the Chairman of the SHU National Review Committee and Mr. G. Rhodes of RHQ Atlantic.

At the October 1995 meeting with the Senior Deputy Commissioner (Annex B), we requested that a copy of the final report be provided before our next meeting. We were advised that the ACAPM would respond directly on this issues.

CSC's Executive Committee Summary of Decisions December 19, 1995 (Annex E), under the heading SHU Annual Report states: "Following discussion the report is approved by members. The report will be formally shared with the Correctional Investigator along with a briefing note summarizing how CSC is and will be responding to its conclusions."

It is of interest to note that the Deputy Solicitor General in August of 1995 in commenting on the issues associated with the SHU stated; "It will be necessary to monitor the annual reports (CSC's SHU annual reports) and to ensure that the reports are completed on a timely basis" (Annex G).

Until such time as we have had an opportunity to thoroughly review both the Report and the briefing note, we are not in a position to pass reasonable comment beyond that which appeared in our 1994-95 Annual Report. (The Service's SHU Report, for the period April, 1994 through March, 1995 was received February 7, 1996.)

Second, two issues identified within our Annual Report were not addressed in the Service's draft SHU Report;

- "establish a National Review Committee with a senior national presence which has and is seen to have the authority and objectivity required to carry out its functions in a fair and responsive manner.*
- establish in policy the requirement that the National Review Committee afford inmates the opportunity, as part of the decision making process, to meet with the Committee." (pg# 22, 94/95 Annual Report).*

Both of these issues were raised with the Senior Deputy Commissioner at our meeting of December 6, 1995 (Annex E). We were advised that "the A.C.C.P.C.P. will determine if inmates are attending NAB decision hearings" and that the Senior Deputy Commissioner "will write EXC. members indicating the need for inmate involvement in the decision making process and the requirement for objectivity and fairness in decision making". We have received no further information on either of these matters.

The Office's observations and recommendations, as detailed in our 94/95 Annual Report, have now been on the table for ten months. As mentioned above, until such time as we have a clearly detailed position from the Service on all issues

related to the SHU, inclusive of their commitments to close the Unit at Saskatchewan Penitentiary and conduct an audit on SHU operations, we are not in a position to do other than to restate our previous observations and recommendations.

2. Inmate Pay

There are two matters central to this issue which are not addressed in the Service's August 1995 response.

First, the initiation of a "thorough examination of the impact of inmate pay on both institutional operations and conditional release" (pg. 24, 94/95 Annual Report). Second, "a sufficient minimum daily allowance be established and that all inmates regardless of status receive at least that minimum daily allowance" (pg. 39, 94/95 Annual Report).

Both of these matters were raised at the October 1995 meeting (Annex B). We were advised that ACCESS would "check to see whether CSC's proposal to the Minister on the alignment of Inmate Pay was in the process". The Senior Deputy Commissioner further agreed at that meeting "to address the issue BI-laterally with the Executive Director after the Minister's decision is received".

According to the Executive Committee Summary of November 21 and 22 (Annex D) a meeting with the Minister to discuss the issue of Inmate Pay was held on November 20, 1995.

At the December 6, 1995 meeting (Annex C), both matters were again raised and we were advised "that the issue remains with the Minister". The Senior Deputy Commissioner indicated that "the Service will discuss the Correctional Investigator's position on this issue with the Minister the next time the issue is raised".

3. Inmate Grievance Process

The 1994-95 Annual Report stated:

"The review process initiated in December of 1993, mandated to make specific recommendations to the Service's Senior Management for a redesigned procedure has to date produced no policy or procedural changes to the system" (pg#25, 94/95 Annual Report).

"Without accurate ongoing information on the systems' operations, it can not be reasonably managed. The first step, in advance of any policy or procedural changes, is to establish an information base for management so an evaluation can be done on the effectiveness of the current process on meeting its stated objectives" (pg# 26, 94/95 Annual Report).

Despite the review process initiated by the Commissioner in December of 1993, there has been no redesign of the procedure and there is no information systems.

There has been a recent change of personnel within the Inmate Affairs Division and further commitments have been provided that the excessive backlog will be addressed. In the short term, we may well see a decrease in the current backlog. These changes and renewed commitments will not address the systemic issues associated with the management of the grievance process which have been clearly identified within our Annual Report. To assist in addressing these systemic problems, Mr. Sloan and Mr. Reid have been assigned to liaise directly with the Manager of Inmate Affairs.

A footnote on this matter. The Service at every opportunity speaks of its efforts at increasing the informal resolution of offender concerns and that these efforts are the by product of the review initiated in December of 1993. First, despite the claimed pilot projects and training programs, we to date have seen no evidence, either via policy or procedure, which indicates any change. Second, a central element of the existing process, which was initiated in the late 1970s, has always been the promotion of informal resolution of complaints. What is it that the Service is specifically taking about that is different? Third, no matter how effective the informal elements of the process are, there is a requirement, a legislative requirement, for a formal procedure to fairly and expeditiously resolve offender grievances. This formal procedure at the present time is basically dysfunctional.

These problems, although most acute at NHQ, are not exclusive to that level of the procedure. One of the focuses of the Arbour Commission was the failure of the grievance process, at all levels, to respond in a timely and accurate fashion to the grievances of the women involved in the April 1994 incident. The current Warden of the Prison for Women, in her testimony last fall indicated that the backlog at her prison had been or was about to be cleared up. This claim was restated in the Service's written submission to the Commission in January of 1996.

As a result of a number of complaints received from inmates on excessive delays in responding to grievances at the Prison for Women, we conducted a review in the Fall of 1995. The results of that review, which found that a significant number of complaints and grievances were excessively delayed, was forwarded to the Regional Deputy Commissioner. The Deputy Commissioner's response of January 25, 1996, while acknowledging the continuing backlog, stated that efforts at resolving this situation "have been impeded by a variety of issues requiring the attention of management such as, The Arbour Commission..."

On the associated matter of the delegation of third level grievance decision making, as detailed in correspondence to the Commissioner dated May 29, 1995, we received a response from the Senior Deputy Commissioner dated December 18, 1995.

Although the authority now rests with the Senior Deputy Commissioner as of October 1995, it was evident from the Commissioner's appearance in mid-December of 1995 before the Arbour Commission that the Service's position on this matter has not changed.

The Senior Deputy Commissioner's correspondence of December 18, 1995, does not address the issues raised in the correspondence to the Commissioner of May 29, 1995. This was discussed with the Senior Deputy Commissioner January 25, 1996 and he has undertaken to provide a detailed response to that correspondence.

Of note, although the delegation of decision making was placed with the Senior Deputy Commissioner in October of 1995, we have received third level grievance responses signed by the form Director, Inmate Affairs dated into January of 1996.

4. Case Preparation and Access to Programs

The quality and the timing of case preparation and the availability of programs both within the institution and the community have been identified by both CSC & NPB as areas which need to be addressed.

The Methe Report (The Report on Parole Eligibility) provides an overview of the current situation in terms of inmates incarcerated beyond their parole eligibility and proposes a three part strategy designed to assist in addressing this matter. This Report was discussed and approved by CSC's Executive Committee December 19, 1995 (Annex E).

A review of the Report's data, acknowledging the on-going limitations of O.M.S., tends to indicate that the reasons for the increase in the incarcerated population centres in part on delayed conditional release and increases in the number of conditional releases revoked without additional charges being laid.

The impact of the Report's recommendations in reasonably addressing these issues will be dependent upon the actions taken by the Service in response to the recommendations and the ability of the Service to measure the impact of those actions. As such what is required is clear and specific details of what the Service intends to do and how it intends to evaluate and measure the results.

As indicated above, the issues identified within the Methe Report are an area of shared concern between CSC & NPB. In conjunction with our discussions with the Senior Deputy Commissioner we have also met with the Chairman of NPB, Mr. Methe of CSC, Mr. Trowbridge and Mr. Tully of NPB as well as members of the Auditor General's staff who are currently conducting reviews on both programming and case management.

On the issue of Case Preparation and Access to Programming, we were advised by CSC in August of 1995 (Annex A):

- "After several years of intensive development and testing in November 1994, a comprehensive Offender Intake Assessment process was implemented".*
- "A revised Correctional Plan process was introduced in the fall of 1994. This process assists staff to assess in which programs an offender should be enrolled and at what point in the sentence".*
- "In March of 1995, the Service introduced a number of initiatives underway or complete to improve information sharing and analysis for the National Parole Board as well as streamlining the process of case management".*

- "National Headquarters will sample cases for quality of case management among the assessments made will be whether or not the case work was complete before the NPB hearing".

What specifically were the results of the above actions?

Specific information on waivers and postponements related to N.P.B. hearings remains unavailable.

5. Double Bunking

Last year's Annual Report concluded on this issue:

"Given the apparent ignoring of the issue at the national level, I feel it is necessary to once again restate the obvious; the housing of two individuals in a secure cell, designed for one individual, for up to twenty-three hours a day, for months on end is inhumane. This practice which continues unmonitored defies not only any reasonable standard of decency but also the standards of international convention" (pg# 31, 94/95 Annual Report).

The obvious was restated at our meeting with the Senior Deputy Commissioner October 18, 1995 (Annex B). We as well requested a copy of the Service's monthly Double Bunking Report. We were advised at this meeting that, the ACAPM would find out about the report, that the Service still could not provide information on double bunking in non-general population cells and that a study was completed over the summer of 1995 and the results would be shared with our Office after final data is added and it is completed.

The CSC Executive Committee Summary November 21 and 22 (Annex D) indicates that a review of double-bunking will be undertaken over the next few months and that a research study will be undertaken to determine the affects of double bunking in segregation.

At the December 6, 1995 meeting (Annex C), we were advised by the ACAPM that a monthly report on double bunking is available.

This Office has yet to be provided with a copy of the monthly report. The study done over the summer of 1995 referenced at the October 18, 1995 meeting has never been provided. We have been provided with no details of either the review of double bunking in segregation or the research study referenced in the November 21 and 22, 1995 Executive Committee Summary. The Service after four years still has no information specific to the number of inmates double bunked in segregation.

DSG's memo (Annex G) states; "CSC's comments do not respond to the CI's chief concerns in relation to double bunking in segregation". We still have no response on this concern..

6. Temporary Absence Programming

We were advised in August of 1995 (Annex A) that a research project on TA programs would commence that fall. As noted in the DSG memo (Annex G), given the limitations of their existing data base, there will not be historical information against which to measure the overall decline of this program. Specific concerns with respect to decline and the disparity of the program from region to region were initially identified by the Correctional Investigator's Office in 1989.

In this regard, last year's Annual Report concluded on this issue by stating:

"It must be recognized that the Service has no reliable data base against which to measure its current performance in this area. As such in moving towards an "evaluation" of temporary absence programming, the question of what is meant by evaluation, what methodology is to be employed and for what purpose is the exercise being undertaken need to be clearly addressed by the Service".

Although we are not sure that the above question has been addressed, we have been advised that the evaluation framework has been completed and the final report will be shared with our Office in February of 1996. (Annex B)

Of note on this issue is the transference from NPB to CSC of the vast majority of decision making authority for TA's (Annex H). Has the Service notified those offenders affected by the policy change? Has the policy change had an impact on the program?

7. Transfers

The DSG's August 21, 1995 Memo (Annex G) on this issue states in part:

"Among the problems noted by the CI are delays in processing transfer applications and in the decision-making process and significant inconsistencies between classifications and placement. Improvements called for by the CI include effective quality control mechanisms to ensure compliance with prescribed timeframes and procedures an effective means for objectively reviewing transfer appeals and regular status reports. CSC's comments are not responsive to these issues".

It was restated at the meeting of October 18, 1995 (Annex B) that "the issues of monitoring and management of the transfer process remain to be addressed". We were advised at that time that the "issue of transfers had been identified by Sector Heads as one in need of a separate meeting", between the various Sector Heads.

It was again, at the meeting of December 6, 1995 (Annex C), stated that the issue was the establishment of a monitoring and management system and for someone to be identified as accountable for that system. It was agreed that it might best be seen as a regional responsibility but to date there has been no indication that anyone is assuming responsibility for addressing this issue.

It is noted in the minutes of the December 6, 1995 meeting (Annex C) that part of the continuing delay in addressing this issue is now attributed to the revision of the Service's Custody Rating Scale. Although the relationship between the "scale" and the security classification process is obvious, it is considerably less obvious why the establishment of a management and monitoring system for the transfer process needs to await changes to the Custody Rating Scale.

The Commissioner advised this Office in March of 1995 that:

"OMS provides information to allow tracking of the inmate transfer process, including the provision of information such as the type of transfer (voluntary/involuntary), date of application, reasons, decision, actual date of inmate movement and the outcome of any appeals. The question is: Is this information available at Headquarters (national or regional), is it correlated and analyzed and what does it show?" (pg#36, 94-95 Annual Report).

The Annual Report concluded on this Issue that the Service to address the concerns associated with the transfer process needs to clearly identify specifically what they are going to do, how they intend to do it and who is responsible and accountable for getting it done. This has not happened!

8. Management Offender Personnel Effects

The Service has still not issued Guidelines and a Directive on the Management of Offender Personal Effects. The delay appears to centre on finalizing a position with respect to inmate access to computers.

As per the minutes of December 6, 1995 (Annex C) we were forwarded the "EXCOM documentation" on this matter. These documents were reviewed by the Service's Executive Committee in December of 1995 (Annex E). We must confess to do not fully understanding the security concerns associated with inmates and computers nor appreciate how these concerns have remained under review for so long without a conclusion.

It is noted from the minutes of the December 1995 Executive Committee meeting (Annex E) that a further discussion paper is being prepared for review in January of 1996 and "that inmate consultation will need to be held". This Office was advised in December of 1993 that there would be a delay in issuing the Directive and Guidelines because the Service had to solicit inmate comments on the proposed revisions in accordance with s. 74 of the CCRA.

We have been assured by the Senior Deputy Commissioner that "any future decisions will be shared with this Office". The process continues.

9. Application of Offender Pay Policy for Unemployed Inmates

The Annual Report recommendation concerning the establishment of a sufficient minimum daily allowance for all inmates has been covered under Issue #2 Inmate Pay.

The Annual Report specifically on the issue of inmate unemployment stated that it "needs to be reviewed in conjunction with the previous Issue of Inmate Pay to ensure that the Service has a coordinated and reasonable pay policy" (pg#39, 94-95 Annual Report).

To date we have received no indication that the issue of unemployment is being reviewed.

10. Criteria for Humanitarian Escorted Temporary Absences

For two years running the Annual Report has characterized the Service's Directive and Guidelines as "clear and reasonably reflective of the policy". Our concern lay with the review undertaken at the Commissioner's level which was characterized as "excessively delayed, defensive and non-committed" (page# 40, 94-95 Annual Report).

We were advised by the Senior Deputy Commissioner at our meeting October 18, 1995 "that the Service is reviewing the possibility of changing policy" and that we will be "consulted along the way" (Annex B).

It would appear perhaps not to be in our best interest to characterize CSC policy as clear and reasonably reflective. We have since October not been consulted on the possibility of changes to the policy.

11. Hostage-Taking - Saskatchewan Penitentiary

We have been advised by the Senior Deputy Commissioner that he and his staff have thoroughly reviewed the areas of concern raised by this Issue.

It was further agreed at the December 6, 1995 meeting (Annex C) that the Executive Director and the Senior Deputy Commissioner would discuss this issue bi-laterally during the next meeting. The issue was briefly discussed during our meeting on January 25, 1996. To date no substantive discussion has taken place.

Although the incident itself has become "history" the areas of concern raised by the Service's management of the incident remain very current. In this regard, we refer to the DSG's memo at Annex G which concludes: "While the issue is becoming dated there may be increased interest this year due to the ongoing inquiry into the incident at the Prison for Women".

12. Mental Incompetence

The 1994-95 Annual Report concluded on this issue by stating:

"This Office has recently corresponded with the Correctional Service to further establish specific areas of further consultation and we look forward to a cooperative approach in addressing this difficult yet important issue" (pg# 47, 94-95 Annual Report).

We have received no further material from the Service on this matter since the releasing of last year's Annual Report. At the December 6, 1995 meeting with the Senior Deputy Commissioner and his staff (Annex C) the ACCRD agreed to follow-up on arranging a meeting between CSC and our Office on this issue. We continue to await this follow-up.

13. Officer Identification

The 1994-95 Annual Report on the issue concluded by stating:

A visit to any number of federal penitentiaries provides clear evidence that the policy on the wearing of name tags is not consistently enforced. I therefore recommend that the Commissioner issue a direction on the issue to ensure consistent application of the Service's policy (pg# 47, 94-95 Annual Report).

We were advised at the December 6, 1995 meeting with the Senior Deputy Commissioner (Annex C) that "the Commissioner recently sent notice to all staff that by February 1996 all CSC staff must wear proper identification".

A review of the November 1995 Executive Committee Summary (Annex D) would indicate that the above noted "notice to all staff" was in the form of the Commissioner advising the Deputy Commissioners of the requirement; not a written notice to staff. Given the effectiveness of the Service to date in having the policy adhered to it is not unreasonable to question this indirect approach of advising staff of the requirement.

14. Inmate Disciplinary Process

The Office recommended in our 1993-94 Annual Report that:

"The Service initiate an audit of their current disciplinary policies and practice, including those related to punitive dissociation, to ensure that they are in compliance with the provisions of the Act and Regulations".

Last year's Annual Report concluded:

"The bottom line on this Issue is the Service has taken no action on my recommendation from last year" (pg# 50, 94-95 Annual Report).

At the October 18, 1995, meeting with the Senior Deputy Commissioner (Annex B), we were advised by the ACAPM that the audit is on-line to be completed in February of 1996.

15. Use of Force - Investigations and Follow-up

Last year's Annual Report concluded that: "In order to reasonably address the concerns raised by this issue, the Service must ensure that:

- *all use of force incidents are thoroughly and objectively investigated, inclusive of input from those inmates affected;*
- *management is responsible for reviewing the reports and ensuring that corrective follow-up action is taken;*
- *an information base is maintained regionally and nationally on use of force incidents, type of force used, circumstances, number of injuries, etc., for the purpose of review and analysis to ensure that such incidents are kept to a minimum. (How many use of force incidents occur over the course of a year?).*

I fail to understand the continuing reluctance of the Service to ensure that use of force incidents are thoroughly and objectively investigated" (pg# 52, 94-95 Annual Report).

The Service's position on this issue is unclear.

Will the Service, following incidents where force has been used, ensure that a thorough and objective investigation is completed as per the requirements of CD 605? The current practice, as allowed for within the Service's Security Manual, allowing simply the Warden's review of the Use of Force Report to constitute an investigation does not meet the intent of the policy in this area.

Where is the policy direction specifically identifying management responsibility and accountability for ensuring that use of force investigations are reviewed and corrective follow-up action is taken?

What is the current status of the Service's efforts at establishing an information base and a review and analysis process on use of force incidents? In August of 1995 (Annex A), we were advised that "the Service will initiate steps to include the information in the Executive Information System. This will allow for the monitoring and analysis of the incidents of use of force at the institutional, regional and national level". In December of 1995 (Annex F), we are advised, "Changes are being introduced to (1) gather complete data in the use of all types of force available to CSC staff, (2) Regional Headquarters will be directed to monitor the use of force in their specific regions and prepare periodic analysis of the data for presentation to NHQ and (3) NHQ will perform random audits of incidents to ensure the timely, accurate and thorough completion of the "Use of Force Report" and follow-up investigations if indicated" The questions is when?

16. Inmate Injuries

There has been no advancement on this issue. Following the release of last year's Annual Report, you wrote the Commissioner on July 26, 1995 stating in part:

"The point appears to have been missed.

Investigations pursuant to s. 19 of the CCRA are not dependent upon the classification of the incident but rather on whether the incident resulted in a "serious bodily injury". The two incidents referred to your attention in March resulted in inmates suffering serious bodily injuries as defined within your Interim Instruction of July 20, 1994. As such the incidents should have resulted in an investigation pursuant to s. 19 of the CCRA. The Service therefore remains on non-compliance with s. 19 of the CCRA".

The response received from the Senior Deputy Commissioner dated December 14, 1995 states that: "An extensive review of the subject reveals the underlying problem to be that CSC does not have a definitive definition of the term "serious bodily injury".

This is an interesting position for the Service to take in defence of its non-compliance with the legislation.

Our 1992-93 Annual Report stated:

The Service, despite numerous requests, has yet to provide a working definition of what constitutes "serious bodily injury".

Our 1993-94 Annual Report stated:

"With respect to the related matter of the Service's responsibilities under section 19 of the Corrections and Conditional Release Act; ~the working definition of what constitutes "serious bodily injury" remains under development".

Our 1994-95 Annual Report stated:

"The Service's Interim Instruction on Recording and Reporting of Inmate Injuries issued in July of 1994 provided a definition of serious bodily injury, yet this Office continues to find instances resulting in injuries which would reasonably appear to fall within this definition which are not being investigated pursuant to section 19".

The underlying problem here is not with the definition. The problem is the on-going refusal of the Service to admit they have been in violation of the Act since its inception and to take reasonable steps to ensure that investigations called for by section 19 are done.

The December 14, 1995, correspondence from the Senior Deputy Commissioner indicates that instructions will be issued to the field concerning the classification of injuries and ensuring that reports are timely, thorough and accurate. We have not received a copy of these instructions.

Of note, a review of SINTREPs for April, May and June of 1995 identified four incidents of major assaults on inmates for which we have received no investigative reports. Has the Commissioner or his designate been provided with a report as required by s. 19 of the C.C.R.A.?

On a general note relevant to the Office's ongoing concerns with the Service's Investigative Process, the Annual Report concluded:

"With respect to the Service's review of its investigative process, I was recently advised that a final report has been submitted and that most of the 71 recommendations contained in the report have been accepted. I look forward to reviewing the policy and procedural changes which flow from these recommendations" (pg# 54, 94-95 Annual Report).

We have not, as of this date, been advised of any specific policy or procedural changes flowing from the January 1995 Fyffe Report (A Review of the Correctional Service of Canada Investigation Process).

17. Visits to Dissociation and Delegation

The Commissioner issued an Instruction December 22, 1994 which read in part:

I expect Wardens and Deputy Wardens to visit the segregation area at least once a week, unless there are convincing reasons to the contrary. I expect this to be a full visit to include, as a minimum, an inspection of the area, review of logs, meeting with staff, and making oneself available to inmates. I would ask Deputy Commissioners to join me in checking the log when we are visiting institutions to confirm that this is happening. This does not obviate the requirement for a daily visit by a Unit Manager as the CD requires.

In a year's time, I will re-address this matter and, if it remains a troublesome issue, the CD will be changed.

Last year's Annual Report characterized this as a "positive direction" and further indicated that we were encouraged that the Commissioner had undertaken to re-address this matter in a year's time to assess, we presumed, both the level of compliance with and the effectiveness of the Instruction.

The Commissioner in his testimony before the Arbour Commission in mid-December of 1995 indicated that the re-addressing of this matter was scheduled for the upcoming Executive Committee meeting. As it does not appear as an item in the December 19, 1995 Summary of Decision (Annex E) we assume it was on the agenda of the January 1995 Executive Committee meeting. Results and comments are expected shortly on the Service's re-addressing of this Issue.

Conclusion

Last year's Annual Report concluded:

"The Service's response over the course of this reporting year are consistent with their past performances. The responses have avoided the substance of the issues at question including a failure to address the specific observations and recommendations contained in last year's Annual Report. The Responses are defensive, display little if any appreciation for the history or significance of the issues at question and provide at best a further string of endless promises of future action, with no indication as to expected results or how the results of these proposed actions will be measured or analyzed.

The Office has two key areas of focus:

- a) the Correctional Service of Canada's continuing delayed, indifferent responses to concerns, individual and systemic, which are referred from this Office, and*
- b) the issue of overcrowding:*
 - its impact on the individual inmate and on the Correctional Service of Canada's ability to reasonably and safely manage the population; and*
 - its causes, which are to a great extent controllable through the reasonable and timely management of the inmate population.*

To ensure that these Issues are reasonably addressed, the Service must begin to turn its attention to the specifics identified within the Annual Reports and cease its current practice of approaching the Issues in an overly generic and isolated fashion. I am hopeful that a focusing on the specifics of the Issues will assist in ensuring not only that these systemic concerns are reasonably addressed but that individual inmate concerns, associated with these Issues, can be dealt within a timely and responsive fashion" (pg# 57, 94-95 Annual Report).

To avoid a similar conclusion this year, it is hoped that the Senior Deputy Commissioner's commitment to produce a Quarterly Review Progress Report, by March of 1996, will provide the Service with the opportunity to focus on the specific observations and recommendations of last year's Report (See attached memorandum dated January 8, 1996).

PROGRESS REPORT ON THE RESPONSE TO THE CORRECTIONAL INVESTIGATOR'S ANNUAL REPORT 1994-95

1. SPECIAL HANDLING UNIT

Issue

Since 1989-90, the Special Handling Units (SHU) have been under scrutiny by the C.I. for their purpose (likened to long-term dissociation) and SHU operations have been closely monitored. The National Review Committee (NRC) has been requested, as part of its mandate, to monitor and analyze the effectiveness of programming and to report this in a timely fashion in the SHU Annual Report.

Currently, two issues are noted in relation to the SHU in the C.I. report:

- a) *Employment and Programming* opportunities should be offered in a reasonable and timely fashion, which are responsive to the specific identified needs of the inmate population served; and,
- b) *Objectivity and Fairness of the National Review Committee (NRC)* with respect to its roles both as a decision-making body on individual cases and as the Committee responsible for the on-going monitoring and analysis of the SHU program.

a) *Employment and Programming*

Response

As previously communicated to the C.I., program offerings are designed to meet the identified needs of the SHU inmates and expedite their return to reduced security.

Action Taken

Programming in the Prairie Region SHU has been greatly enhanced over the last two years with such program offerings as Cognitive Skills, Anger Management, and Alcohol/Drug Counseling.

Similar programming attempts in the Quebec Region have not been as successful, as explained in the recently-submitted "*Report on the Special Handling Units (SHU) 1994-*

95” (September 1995)* i.e.; incompatibility of SHU inmates with group programming, the lack of inmate interest and boycotts of programs/counseling offered by the institution (occurring between September 1994 and February 1995), and the lack of space for program delivery.

An internal audit of both SHUs, scheduled to take place between April 22 and May 3, 1996, will include the examination of the delivery of programs and the role and mandate of the SHU NRC in accordance with criteria of objectivity and fairness. The audit project plan has been submitted to the Office of the C.I. for review.

b) Objectivity and Fairness of the National Review Committee (NRC):

Response

The composition of the Committee is based on the rationale that regional and local managers become active participants in both the administration of policy and the monitoring of results for EXCOM. The assignment of a senior manager to the Committee is seen as both a workable and legal approach, which also at present allows Wardens to participate directly in the review process. A recent court decision has confirmed the legality of this composition. As this Committee has proven to be a logical and viable entity, the Service is not planning to alter the membership of the SHU National Review Committee.

As referenced in the December 1995 SHU Interim Report, the current NRC is transferring a greater number of offenders from the SHUs, denying admission to an increasing number of offenders following initial assessment resulting in a net decrease to the overall population of the SHUs. Such results demonstrate the fairness and objectivity of this process.

Action Taken

At present, inmates have the capacity to make representation to the NRC, which considers their personal views. An alternate approach in addressing the concerns about objectivity and fairness (subsequently documented at the December 6, 1995 Joint CSC/C.I. Business Meeting) was to have inmates attend the NRC hearings. The NRC Chair indicates that, upon request, any SHU inmate can currently be interviewed by two members of the Committee at the first committee review following the inmate’s request. The two members then report back to the full committee.

The Service is seriously examining the entire issue of representation at the NRC meetings and will, accordingly, seek legal advice, as this may have implications on other involuntary transfer decisions.

*(NOTE: A draft and final copy of the 1994-95 Annual SHU Report have been provided to the C.I. as have subsequent 1995-96 Interim/Quarterly reports for 1995/96, published in September and December 1995.)

2. INMATE PAY

Issue

The C.I. has raised the issue of inmate pay since the 1988-89 Annual Report, urging across the board increases to offset the erosion of the offender's financial situation. Immediate action was recommended to ensure that the offender pay scales reasonably reflect the cost of living within the institution. The C.I. also expressed concerns about the negative impact of this situation on institutional tension, inmate debt and illicit activities.

In the 1994-95 Annual Report, the C.I. claimed that there had been no thorough review of inmate pay and, once again, raised two related concerns. The first is the impact on institutional operations (i.e., inadequate pay encourages illicit activity). The second relates to the release of offenders without adequate funds. The Report concluded with a call for a thorough examination of the impact of inmate pay on both these issues.

Response

The Service accepts the fact that issues surrounding inmate pay will continue to emerge, and that policies guiding it must change accordingly. Factors such as the impact of pay upon the inmate economy are among the issues to be considered. Under the Ministerial direction, a Treasury Board approved pay increase was not implemented in 1992-93. Given the fiscal climate, the Minister has indicated his preference to introduce new pay levels that are directly linked to the performance of the offender in completing the terms and conditions of his Correctional Plan and remain within current approved reference levels for inmate pay.

With regard to the review of inmate pay to study its impact on institutional operations and release, the Service has previously stated that it does not intend to take further action.

Action Taken

The Service is finalizing a Treasury Board submission for the Minister's signature that will adjust pay levels within the current (\$19.2 Million) reference level. The submission proposed five pay levels that are more consistent in relating the offender's pay with program participation, and raise the minimum daily allowance for inmates unemployed by no fault of their own. The proposal is to be cost neutral and will not provide across the board pay increases.

3. INMATE GRIEVANCE PROCESS

Issue

The C.I. has long expressed concerns with CSC's internal inmate redress system, which is mandated by the *Corrections and Conditional Release Act (CCRA)*. The concerns relate to: the lack of effective management of the system at the national level, including the establishment of an information base; little evidence of management commitment to this system; excessive delays in grievance responses, particularly at the Commissioner's level; a lack of information concerning the efforts undertaken to promote informal conflict resolution; and, the absence of a means of monitoring thoroughness and objectivity of reviews. Finally, the C.I. has requested that an extensive national audit of the management of the system be undertaken.

Response

The Service acknowledges that the inmate grievance process is of concern to both parties, and that it will work with the C.I. to seek improvements. The request by the C.I. for a national audit of the grievance process in the Annual Report is not supported by CSC at this time, as it is unlikely to reveal new information related to the problems identified with the system. As is noted by the C.I., a prerequisite for an effective review of the system is the establishment and implementation of an information base.

CSC acknowledges that the 3rd level grievance process has had serious problems, specifically timely replies, trend analysis and organization of the Inmate Affairs Division. The Service, however, is of the view that it provides high quality investigations and grievance responses.

The Service recognizes that it must improve its ability at resolving issues at the local levels, before formal grievances are submitted. Similarly, when a grievance is launched, the Service must respond more quickly in resolving the issue. This applies to all levels of the process.

Grievances are not responded to on a "first-in, first-out" basis. Rather, certain classes of grievances are given priority, such as involuntary transfers and temporary absences for humanitarian reasons. Generally, the test for determining the priority is whether the grievances relate to issues that have the potential to significantly effect an inmate's level of freedom and restriction. These are given immediate attention.

The Service will be undertaking a review of the CD on Inmate Grievances to determine if the time frames are achievable and to put into policy proposed prioritization of grievances. This review will be undertaken in the first half of fiscal year 1996-97, and policy changes will be made as required.

Action Taken

a) Effective management of the system at the national level, including the establishment of an information base.

The conversion of all data related to offender grievances, from an old system to Offender Management System, has been completed. All grievance data, including the subject of the complaint and the results of investigations, are now entered consistently at all grievance levels. In addition, a stand-alone system (DOMUS) was implemented for use by NHQ grievance analysts and managers. This provides an immediate mechanism to monitor response times for individual analysts' caseloads and for the overall efficiency of the 3rd level.

With the full implementation of the two electronic systems, the Inmate Affairs Division is now in a position to begin to analyze grievance trends across the country and will, in the next few months, begin to provide managers across the Service with data which can assist them to recognize both strengths and areas of weakness requiring attention. The first report for managers will be completed by July 1, 1996.

b) The lack of evidence of management commitment to this system.

A number of organizational and procedural changes have taken place to ensure that an appropriate level of management attention and commitment is dedicated to the Grievance System, including:

- the transfer of the direct reporting of the Inmate Affairs Division to the Senior Deputy Commissioner in September 1995;
- the establishment of regularly scheduled business meetings between senior officials from CSC and the Office of the Correctional Investigator, to promote ongoing dialogue and resolution of issues and concerns of a general nature;
- the establishment of two direct liaison functions between identified staff from the C.I.'s Office and the Manager of Inmate Affairs staff: one to deal with inmate case-specific issues, and the other to deal with concerns related to the inmate grievance system; and
- the Service has provided the C.I. with access to the CSC Executive Information System (EIS).

c) Excessive delays in grievance responses, particularly at the Commissioner's level.

Monthly statistical analysis of the time required to respond to 3rd level grievances was undertaken commencing in January, 1996, to allow close monitoring of response delay time and the identification of areas for improvement.

Staffing action to hire further permanent personnel was successfully completed in January, 1996. Two additional analysts have now commenced full time duties. In addition, a position has been approved for a senior analyst. It is anticipated that staffing action will be completed by May, 1996. The larger complement of staff and the permanency of personnel should serve to assist in having an area dedicated to effective and efficient investigation and response to 3rd level grievances in the coming year.

The efforts undertaken recently (January and February, 1996), have resulted in a reduction by approximately 45 days in the time required to respond to 3rd level grievances. Furthermore, in January the number of outstanding cases was 284, in February they were reduced to 195 and since February, they have been further reduced to less than 125.

In addition, the target for responding to correspondence from the Office of the Correctional Investigator to the Commissioner or Senior Deputy Commissioner has been reduced to 10 working days, wherever possible.

d) The lack of information being provided to the C.I. concerning CSC efforts to promote informal conflict resolution.

Pilot projects with increased commitment by institutional management have been successful in Warkworth and Edmonton Institutions, yielding significant reductions in the number of grievances filed at these two sites. From April 1, 1994 to March 31, 1995 there were 64 3rd level grievances at Warkworth and 28 at Edmonton. By contrast, from April 1, 1995 to March 7, 1996 the number of 3rd level grievances submitted were 33 and 15, respectively.

The Executive Committee (EXCOM) has endorsed this effort and has encouraged further similar projects at other institutional sites. A newly created position, Manager of the Dispute Resolution Initiative will be involved in the promotion and implementation of various projects, policies and training initiatives aimed at enhancing informal problem resolution processes. CSC will share information with the C.I. on an ongoing basis with respect to this initiative.

4. CASE PREPARATION AND ACCESS TO PROGRAMMING

Issue

This issue, first raised in the 1988-89 Annual Report, centres on the delays in providing assessments and treatment in advance of parole hearings. Initially, the concern was related specifically to mental health programs.

The C.I. suggests that this problem has contributed to escalating population growth. He further asserts that the present situation is unlikely to subside as long as effective information systems to assess the timely delivery of programs remain inadequate. Examples cited include the lack of reporting on sex offender program delivery, waivers, postponements and concordance rates between the CSC and NPB.

Although the C.I. acknowledges that this is a complex issue, as well as CSC's progress in terms of expanding programs in recent years, he contends that important aspects of the solution lie in improving the information base and in providing programs in a timely fashion. This has been a recurrent theme of the Annual Reports, particularly in the areas of the Offender Management System (OMS), the sex offender tracking system, and the use of waivers and postponements.

This issue has evolved from the initial concern about the lack of programs to the current emphasis on the timely delivery of programs. As the CSC expanded its program capacity to meet an ever-growing demand, the C.I.'s focus shifted to the need for more timely intervention, claiming that the dependence on the incarcerated portion of the sentence for delivering programs only served to delay the release of offenders at their earliest eligibility date. According to the C.I., the CSC was reluctant to shift the delivery of programs from the institution to the community, which was termed a "cycle of dependency".

In the 1994-95 Annual Report, the C.I. asked for a clear understanding of both the scope and causes of the problems associated with the delays. Again, underlying this concern is the perceived need for an adequate information base that would allow for this understanding.

Response

The Service responded to the 1994-95 Annual Report by highlighting the progress made over the past years, as well as the research conducted. The latter has led to improved targeting of program interventions on those offenders who have the highest need, based on their criminal behaviour.

The comprehensive intake assessment process, the revised Correctional Plan process, the development of the OMS information base, and improved communications with the NPB were cited as examples of the general improvement. In addition, the Service indicated that it was monitoring the number of offenders incarcerated beyond their eligibility date and would report on the results of this analysis by the end of October, 1995. Lastly, the CSC undertook two sample cases of the quality of case management which, among other factors, was to focus on whether or not the case work was completed prior to the NPB hearing.

Action Taken

During meetings with the C.I. in October and December, 1995, the Service presented an overview of the *Report on Parole Eligibility* and the highlights of the findings. Subsequently, a briefing was provided to the C.I. on January 18, 1996.

The implementation strategy for the *Report on Parole Eligibility* was approved by EXCOM on December 19, 1995. A three-part action plan has been developed to examine: the potential use of Mandatory Early Review (MER) of cases; a policy to limit the use of additional conditions; and, the role of community-based case managers in the case preparation process.

It should also be noted that the remaining institutional population who have not undergone Offender Intake Assessment are to be rated for risk/needs by June 30, 1996. CSC will therefore have access to risk/needs information on all incarcerated inmates available to program boards.

The Service, between June and December, 1995, sampled cases recorded on OMS in each region to assess the quality and the timeliness of the various components of the case management process. The intent of the sampling was to highlight for each Deputy Commissioner where attention should be focused to improve case management. The regions have used that information to assist them in determining topics for meetings, workshops or training and the regions are continuing to monitor case management using similar sampling methods.

Currently, the Service is developing management indicators to allow for a continuing assessment of how effectively a number of components within the case management process are being addressed. Work is underway on establishing meaningful indicators for segregation, transfers, release decisions, correctional plans, community case management, grievances, offender security classification, and urinalysis. The development process is complex and requires significant consultation, but it is being approached systematically on a priority basis. It is expected that the first management indicators will be in place by the end of June 1996, with others being added as the development is completed. These management indicators will form the basic accountabilities for operational unit heads.

5. DOUBLE BUNKING

Issue

This issue dates back to 1984, when the C.I. first commented on the negative impact of double bunking on the individual offender as well as institutional operations. The C.I. concluded the 1994-95 Annual Report with the statement that the practice of double bunking is inhumane and continues to be unmonitored.

Response

The impacts on CSC's population, and resulting accommodation measures, are multi-dimensional. Given the continued need for fiscal restraint, federal offender population growth and current and anticipated legislative impacts, double bunking (accommodation of two offenders in a cell designed for one) will continue to be a normal practice in CSC as described in CD 550, Inmate Accommodation. Even if populations decrease, the Service will be funded on the basis of a permanent double bunking policy.

Offender Growth and Profile

During the past four fiscal years (1991-92 through 1994-95), CSC experienced an unprecedented increase in its incarcerated offender population. Relative to the historical long-term (30-year trend) growth of 2.5% - 3% per year, the incarcerated offender population grew by an average of over 5% per year during this four-year period but this year, it was reduced.

Conversely, there has been a decrease of approximately 5.5% in the number of offenders under community supervision during 1994-95, particularly among conditionally released offenders on Full Parole. This overall reduction is attributable to a variety of factors, including a continued increase in the proportion of the incarcerated population who are serving sentences for violent offences (currently, 77% of CSC's incarcerated offenders are serving sentences for violent crimes).

In addressing this issue of increasing incarcerated population, the Service established (February 1995) population management planning measures. Such planning measures include: over-utilization by up to 25% of institutional capacity on a regional basis, in single occupancy designed cells.

CSC has approved a Population Management and Accommodation Strategy that is leading toward providing the Regions with the necessary accommodation to minimize double bunking of such special needs cells as: observation of suicide risks; health care; cells in regional treatment/psychiatric centres and mental health units, which are reserved for mental health treatment purposes; Special Handling Units; cells with no natural light; cells having an areas of 5.5 m² or less; and cells designed for handicapped inmates. The

strategy accepted by Treasury Board will provide CSC with the necessary resources to build sufficient accommodation, within the next three years, thus normally avoiding double bunking in these cells.

Achievements toward these planning measures to date include the elimination of double bunking in all cells at Kingston Penitentiary which are less than 5m², and the elimination of double bunking in all normal association and reception cells which are 5m² or less.

Complementing these measures is the planning for new, renovated or retrofitted accommodation, with the exception of special needs cells, based largely upon the use of shared accommodation (i.e., cells which are designed and built to house two offenders) and inter-regional transfers to alleviate temporary imbalances in regional levels of over-utilization of cells suitable for double bunking. However, none of these measures will eliminate double bunking. Double bunking will remain part of the Service's accommodation strategies.

Action Taken

Double Bunking in Cells Designed for One up to Twenty-three Hours a Day

The issue of double bunking in segregation and lack of monitoring of same was addressed in a memorandum, dated December 11, 1995, from the Assistant Commissioner, Accountability and Performance Measurement (APM). The document requests that institutions "...minimize double bunking in segregation (as well as psychiatric and medical treatment areas)."

Monitoring the Use of Double Bunking

Each institution is to complete a segregation double bunking report on the 15th of each month. This monthly monitoring commenced in January 1996 and will be undertaken for a 6 month period initially. The C.I. has been provided the results of this review and will receive subsequent monthly reports. Statistics on the number of normal population double bunked cells (by institution) are available on CSC's EIS which has been made available to the Office of the C.I. Work is also in progress by Accountability and Performance Measurement to establish a monitoring mechanism for double bunking of special needs cells (by institution) as well as for shared accommodation. A preliminary review has determined that a research project on the impact of double bunking in segregation is not feasible at this time, and, therefore, it has not been approved as part of our research plan.

6. TEMPORARY ABSENCE

Issue

The C.I. initially raised concerns regarding the Temporary Absence Program in his Annual Report for 1990-91, requesting a complete analysis on an institution by institution basis, to determine the cause of the decline in the use of this program. In the C.I. report of 1994-95, the C.I. reiterated the assertion that the Service had done nothing to monitor and evaluate the reasons for the decline. In addition, it was stated that the Service has no reliable data base against which to measure its current performance in this area. The Report contained reservations about the CSC's commitment to undertake this evaluation, and questioned its meaning, purpose and methodology.

Response

The Service acknowledged the need for a reliable data base for TA's. It also agreed that the C.I. raised legitimate concerns regarding this program, which will be addressed as part of the evaluation of the TA Program to be completed as part of the 1995-96 Research Plan.

Action Taken

With respect to the need for a reliable data base, a data extraction program has been developed, providing basic information on the TA Program. In addition, as of May, 1995 the EIS contains a statistical model related to the TA Program. In her correspondence of November, 1995 the Assistant Commissioner, APM offered training to staff of the C.I. Office in extracting this and other information contained in EIS, once the C.I. has been connected to the system.

The evaluation of the TA Program is currently underway. The evaluation will examine the relationship between TA's and the granting of discretionary release, as well as post-release outcome. A cohort of 1993-94 TA's has been established (approx. 34,000 TA's and 7,000 offenders). Analysis is underway exploring the distributions of purpose and type of TA across regions, ethnic groups, major offense categories and risk levels. Correlation analysis are being conducted to examine the relationship between number and variety of TAs granted, discretionary release and post-release outcome. The study is expected to be completed by the end of April 1996.

In addition, the study on interim release being conducted as part of the CCRA Review will focus on the effect of the ETA/UTA program on both Day and Full Parole release decisions.

7. TRANSFERS

Issue

Among the problems noted by the C.I. are delays in processing transfer applications and in the decision-making process and significant inconsistencies between classification and placement. Improvements called for include effective quality control mechanisms to ensure compliance with prescribed time frames and procedures, an effective means for objectively reviewing transfer appeals and regular status reports.

The 1994-95 Annual Report concludes that the Service, to address the concerns associated with the transfer process, needs to clearly identify specifically what they are going to do, how they intend to do it and who is responsible and accountable for getting it done.

The C.I. further quotes the Auditor General in his recent report which indicated that the Service should:

- revise the Custody Rating Scale as soon as possible, using the most current data, to ensure its continuing validity;
- consider including additional factors in the Scale to ensure more consistency between inmate security classification system and the provision for accelerated parole review; and,
- consider reclassifying inmates more frequently than on an annual basis and place more emphasis on the consistency between security reclassification and other risk assessment decisions such as transfers and parole.

Response

Transfers are one of the first two performance indicators for release by the end of June 1996. Staff of both agencies have agreed that the monitoring of Transfers in terms of compliance with the policy and procedures, including all aspects such as adhering to time frames, the decision-making and appeal process is a regional responsibility. The Senior Deputy Commissioner has directed that each region establish a mechanism by April 1, 1996 to ensure that this monitoring is carried out on a regular basis.

Action Taken

The Custody Rating Scale was reassessed and, with some minor modification, validated as the instrument for initial placement decision (February, 1996). Regions will be developing mechanisms to assess/monitor the implementation of the instrument.

As part of this review, Regions will examine the linkages between the instrument and the initial placement decisions. The first assessment will be completed by October 31, 1996, with a full national report being compiled by APM by December 31, 1996.

Work is ongoing in CRD on the development of a tool to objectively and consistently assess inmate security classification throughout the period of incarceration. This will allow for the re-classification of offenders based on the risk factors, which may change. It is expected that this new tool will be fully operationalized by April, 1997. Once fully implemented, the APM Sector will examine the effect of the re-classification process on placement decision, including transfers.

8. PERSONAL EFFECTS (COMPUTERS)

Issue

In the 1994-95 Annual report, the C.I. indicated that, although the revised policy and guidelines on inmate personal effects address many of the initial concerns raised, inconsistencies remain with respect to computers. The report concluded with the hope that a final decision ensuring both reasonable access and consistency on this matter would be taken in the near future.

Response

The Service has undertaken a review of the issue of personal computers and to create an appropriate policy.

Action Taken

Given the rapid expansion of computer technology, and the potential misuse by offenders, the Service has fully reassessed the practice of permitting inmates to have computers in cells. While it was decided that there were important rehabilitation benefits, some form of controls had to be put in place to reduce the risk of misuse, threats to CSC's networks (and other systems as well) and costs. Therefore, a new policy has been approved to permit certain types of computers that have been sealed to prevent abuse. Further, all costs of alterations, repair and purchase are the responsibility of the inmates. The moratorium will be lifted by May 1, 1996.

9. OFFENDER PAY POLICY FOR UNEMPLOYED INMATES

Issue

The issue of adequate compensation for those inmates who are unemployed through no fault of their own has been under discussion since 1991. In the 1994-95 report, the C.I. stated that no action had been taken by the Service to implement the recommendation that a sufficient daily allowance be established and that all inmates, regardless of status, receive at least the minimum. The C.I. also reminded the CSC of its previous commitment to review the case of inmates unemployed through no fault of their own, with a view towards raising their daily allowance.

Response

The Service is planning to adjust the pay policy so that inmates who are unemployed, through no fault of their own, will receive a daily allowance of \$2.65 (up from the current \$1.60).

Action Taken

As the *CCRA* requires Treasury Board approval to revise pay levels, a Treasury Board submission is being prepared for the Minister's approval. It is anticipated that this proposal will be submitted to the Minister by mid April, 1996. As indicated by the Senior Deputy Commissioner during the business meeting with the C.I. in December, 1995, a minimum allowance for inmates, regardless of status, is not anticipated nor being contemplated by the Service. A representative from the C.I.'s office will discuss the issue of a minimum allowance for inmates directly with the Minister.

10. CRITERIA FOR HUMANITARIAN ESCORTED TEMPORARY ABSENCES

Issue

This issue was originally raised in 1988, as a result of a number of complaints from offenders who had been denied escorted TA's to attend a funeral of a family member. The Annual Report for 1988-89 concluded with the statement that this practice was without reasonable justification, since it was seen to be based primarily on cost.

In his Annual Report for 1990-91, the C.I. acknowledged the fact that the Service had amended its policy to remove the cost factor from the criteria for humanitarian TA's, but cautioned that the policy needed to be widely understood and implemented. In the annual report for 1993-94, the C.I. reiterated his concern that offenders were being denied humanitarian TA's for reasons inconsistent with the policy. These concerns were again addressed in the report for 1993-94, with the recommendation that the policy be clarified and that this be incorporated in the *Offender Rights and Privileges Handbook*.

In the annual report for 1994-95, the C.I. acknowledged that the Commissioner had taken this issue seriously, and that the policy had been clarified to this satisfaction. However, the C.I. was critical of the way in which decisions referred to the Commissioner for review were handled, citing excessive delays, defensiveness and non-commitment on the part of the Service.

Response

In 1994, the Commissioner was concerned with the situation and took action to reinforce the Service's policy in this area by issuing guidelines for Wardens in the granting of ETA's for compassionate reasons. These guidelines, according to the C.I., were clear and reasonably reflected the Service's Policy.

In response to the Annual Report for 1994-95, expressing concerns with the process for reviewing decisions at the Commissioner's level (7 in total since April, 1993), the Service undertook to review the cases in point.

Action Taken

A review of the seven cases was conducted by the Service. Of the seven, three confirmed that the Warden's decision was consistent with the policy, which predated the guidelines. In one case, the Service agreed with the C.I.'s analysis, and reminded the Warden of the intent of the policy, directing a graveside visit. In another two cases, the review concluded that the Warden's decision was consistent with the new guidelines. One case was not reviewed, as it was deemed to be too old.

With respect to the policy, the issue of limiting the number of compassionate ETA's for which an inmate can apply was raised in mid 1995 by senior regional managers. The proposed change to the *CD 790 (section 29)* would limit the granting of a compassionate ETA to either attend the funeral of family member or close personal friend, or visit that person after being diagnosed with a terminal illness. Currently, the language in the CD permits eligible inmates to apply for both types of compassionate ETA's, and the institutional head must approve either or both unless there are security or case management concerns.

In December, 1995 proposed changes to the CD were drafted by the office of the SDC and sent to the Ontario Region to carry forward to EXCOM in 1996.

As noted in the minutes of the business meeting with the C.I. in October, 1995 the concerns of the C.I. regarding this issue are no longer with the policy, but with the process of reviewing the decisions on individual cases. CSC is aware of only two requests this year to review specific cases.

CSC is of the view that the policy is clear, it is being implemented appropriately by the Wardens, and consider this issue resolved.

11. SASKATCHEWAN PENITENTIARY, HOSTAGE TAKING, 1991

Issue

This incident occurred on March 25, 1991 and resulted in the death of two offenders. It is a matter which has been the subject of extensive discussion and correspondence between the OCI and the Service. A number of concerns were raised such as: the decision to use drugs as an item of negotiation; the delayed publication of Preventive Security Standards and Guidelines; the availability of audio-visual surveillance devices; the policy of integrating protective custody offenders into the general population; the availability of information related to a previous hostage taking by one of the perpetrators; and CSC's investigation into the injuries suffered by the surviving hostage taker.

Response

After a further review of all of the material that has been exchanged, the Service has the following comments to offer:

It is acknowledged that drugs were provided under medical supervision during the hostage taking. This was done in order to calm a highly charged environment over which the Warden had not established full control as well as to preserve lives that were under threat at the time. Because only sedative-type drugs were involved in a limited way, this did not violate the intent of the "no drugs" policy of the Government -- a distinction not made, however, in current Service policy. Given this fact and the more recent experience with respect to hostage takings, it is clear that the Service has to re-visit the use of drugs to calm hostage situations.

The involvement of Mr. Harradance did not present a conflict of interest as he was not the negotiator for the Service or the inmates. Rather, he was called to the scene to assist the inmates and provide legal counsel.

The Service acknowledges that there were significant problems associated with the publication of the Preventive Security Standards and Guidelines, however, they have now been rectified.

With respect to the use of audio surveillance equipment, there is a Memorandum of Understanding with the RCMP in place for all institutions across the country. The use of such equipment depends on the circumstances of the incident. However, the capacity is there.

It is true that an undertaking in 1992 to further study the state of integration of protective custody cases was abandoned. Rather, due to limited capacity, it was decided to focus on

a review of the management of violent aggressors. In the late 1980s the Service moved to bring those protection cases that could be out of segregation where they, as victims, were locked up and denied programming and returned them to normal association. For the most part, this has been successful.

It is true that not all information on a 12-year old hostage taking involving one of the offenders was made available to the Warden in a timely fashion. While the reasons for this have been documented, there is a valid need to develop a more disciplined approach to information-gathering to support Wardens in such situations.

The question of the alleged injuries to Mr. Murray has been investigated a number of times. It is acknowledged that he suffered a number of minor injuries over the course of the incident. However, his allegations of a beating by staff have never been substantiated over the course of a medical examination, eye-witness information, an RHQ investigation and a Coroner's Inquiry.

Action Taken

A recent CSC research report revealed that the nature of hostage takings was changing, from the classical view of demand-driven events to more assaultive events, especially involving sexual assault. Therefore, the Service is re-examining the use of drugs in hostage takings and will propose new guidelines as a result of that review.

To avoid further delays in changes, the maintenance of the Service's Security Manual has been vested in the Correctional Policy and Corporate Planning Sector

The Service is preparing a checklist of information that Crisis Managers (Wardens) need in such situations. It will be incorporated in the crisis management policy material.

12. MENTAL INCOMPETENCE

Issue

The issue of representation available to offenders who lack legal capacity pursuant to various provincial statutes governing trusteeship or guardianship was raised in August, 1991. In his Annual Report of 1994-95, the C.I. reported that substantial progress had been made over the course of the reporting year in both focusing the areas of concern associated with this issue as well as establishing future direction. The report concluded with the statement that it looked forward to a cooperative approach to address the issue.

Response

The Service responded by clarifying a number of issues surrounding this general concern: the legal definition of incompetence; the lack of uniformity among provincial statutes regarding legal guardianship; and, assistance to offenders who may be legally competent but who are unable to manage their daily affairs. Regarding the latter, the Service reiterated its plan to build or convert up to 6% of its cell space to accommodate mentally disordered offenders and provide them with the necessary assistance to manage their daily lives.

Staff facilitates proper management of case management through a client-centered approach known as the Case Management Strategies (CMS) Approach. Specific risk/needs and strengths/weaknesses are identified in an attempt to develop differential treatment models for five groups of clients. There are two CMS groups into which mentally incompetent or vulnerable inmates fall. "Environmental Structure" are those who lack social and vocational skills and may have intellectual deficits, and whose offenses usually result from their inability to succeed in the world at large. "Casework/Control" are those inmates who have experienced a general instability in their life situation and whose offenses stem from serious emotional problems, substance abuse problems and negative self-perceptions.

Action Taken

The Service undertook a survey of all medium and maximum security institutions during July/August of 1994 to determine if there were any cases of offenders who had been declared to be mentally incompetent under provincial legislation. None were found. If there were to be, these offenders would be transferred to a regional mental health facility. Here, the mental health community is involved in the treatment and management of the offender in accordance with the prevailing provincial statute.

In responding in February, 1995 the Service suggested that this issue be explored in three ways. Firstly, the C.I. was requested to note any complaints received in this area, or cases that came to his attention without complaint, and provide the specifics to the

Service for further action. Copies of reports already completed on this issue were also requested. To our knowledge, there have been no cases cited to date.

Secondly, the Corporate Advisor, Health Services, was requested to discuss this issue with the Boards of Directors/Boards of Advisors to the Regional Psychiatric/Treatment Centres, to determine the extent to which the Service should adopt the mechanisms available to patients in the provincial mental health facilities, such as Patient Advocates. This action was subsequently taken. As a result, the general consensus was that current practices are working well and that the CSC need not adopt any additional measures in this area.

Lastly, the Executive Directors of the regional mental health facilities were requested to ensure that, in the future, this issue be discussed with the audit teams during the accreditation process by the *Canadian Council on Health Services Accreditation*, to obtain their assessment.

13. OFFICER IDENTIFICATION

Issue

This issue first arose when the C.I. conducted the *Archambault Inquiry* in 1984. In his 1988/89 Annual Report, the C.I. identified the need for uniformed and non-uniformed CSC employees to wear name tags. In the 1990-91 report, he stated that he could “not accept as reasonable a further eighteen-month delay in implementing a basic policy decision”. In his report of 1993-94, the C.I. mentioned that, although a decision had been reached in May, 1993 by EXCOM, he hoped that the matter was resolved. In the 1994-95 report, the C.I. has once again mentioned that “a visit to any number of federal penitentiaries provides clear evidence that although a definitive policy may well be in place, the practice continues to be considerably less than consistent. I remain firm in my position that it is unacceptable for a public servant, especially a public servant designated as a peace officer, not to be identifiable to the public they serve. I again therefore recommend that the Commissioner take whatever action is necessary to ensure that the Service’s policy in this area is consistently adhered to.”

Response

The Service’s current policy on wearing name tags is stated in the *Dress & Deportment Manual*. In May, 1993 a decision was reached by EXCOM that all institutional staff whether uniform or non-uniform, would be required to wear name tags effective July 1, 1993.

Action Taken

In response to this issue again being raised in the C.I.'s report of 1994-95, the Commissioner advised the Deputy Commissioners, at the November 1995 Executive Committee Meeting, that by February 21, 1996, all staff at operational units, including Regional Headquarters, must be wearing name tags. He further noted that National Headquarters staff are now required to wear I.D.

The Commissioner once again raised the issue of name tags at an EXCOM meeting in January 1996. He reiterated that appropriate sanctions need to be taken against employees who do not wear their name tags and Wardens and RDCs are expected to enforce the policy. Senior staff visiting institutions will monitor the results.

14. DISCIPLINARY COURT DECISION

Issue

In 1992-93, a complaint regarding a minor disciplinary court decision revealed the absence of disciplinary hearing records. The C.I. has continued to have concerns that CSC may not be consistently maintaining disciplinary hearing records, which is in contravention of CSC policy and CCRA regulations, and recommended that the Service initiate an audit of their current disciplinary policies and practices to ensure compliance.

Response

The Service is finalizing an audit of Inmate Discipline which began in November 1995 and the C.I.'s concerns/issues were taken into consideration and incorporated, as appropriate, in the audit.

Action Taken

The audit report is planned to be submitted by the end of May, 1996.

15. USE OF FORCE - INVESTIGATIONS AND FOLLOW-UP

Issue

In his 1992-93 Annual Report, the C.I. recommended amendments to CSC's policy to ensure that the incidents of the use of force are thoroughly and objectively investigated, and that timely corrective action is taken. In his report of 1994-95, the C.I. reiterated his concern that many of the incidents involving the use of force are treated as routine events, without being thoroughly investigated. The report concluded with the recommendation that all incidents be thoroughly investigated, and that policy clearly detail senior management's responsibility to ensure the investigations are objective and corrective action taken.

The C.I. also recommended that a database be created to facilitate the monitoring and analysis of these incidents, with the objective of minimizing the number of incidents in which force is used.

1. Not all incidents involving the use of force against inmates are being investigated

Response

Current CSC policy is clear on when an investigation will be conducted into the use of force. CD 042 states that a preliminary investigation shall be conducted as soon as possible after the incident, to provide a summary overview of the incident and identify issues which may be of concern. It also states that a preliminary report shall be made available to the Warden for review and forwarded to the Regional and National Headquarters, to fulfill the requirements for incident reporting and entry into the Security Profile System. It further indicates that the Warden, having reviewed the preliminary report, may decide to initiate a general security investigation. The CD defines the general security investigation, describes where copies are to be distributed, and lists the type of incident requiring a general security investigation.

CD 605 clearly states that an investigation shall be ordered by the institutional head following an incident where force was used. The Operational and Preventive Security Standards and Guidelines also require that every incident involving the use of force shall be reported to the institutional head. The types of force listed include all types of force approved for use by staff, except for verbal commands. The CD further states that a review of this report by the institutional head may constitute an investigation, as required by CD 605.

In three instances, the head does not have the discretion to order an investigation: where an inmate suffers serious bodily harm; where the inmate dies; and, where the head has concerns regarding the type of force employed.

The issue raised by the C.I. does not appear to center around the requirement for an investigation, but rather what constitutes a thorough investigation as outlined in policy. Subsequent discussions with the Manager of Investigations (November 24, 1995) and an earlier C.I. Meeting with CSC (October 18, 1995) have further clarified this issue. At the latter meeting, the Executive Director of the C.I.'s office agreed that an investigation, under the CCRA, was not required in every case. He further agreed that the decision to determine the type of report was at CSC's discretion.

At issue, however, are the timeliness and quality of the investigations. It is expected that these be thorough and comprehensive, with an examination to ensure all required reports have been completed and procedures followed as outlined in the Service's policy. As a result, it is felt that the current CSC policy regarding the use of force is adequate and that no modifications to policy are either required or requested. The Service agrees, however, that procedures need to be in place to monitor and review the quality and timeliness of investigations reports on the use of force, and ensure corrective action is taken where warranted.

Action Taken

The Regional Deputy Commissioners were instructed in a memorandum, dated December 20, 1995, to provide monthly reports on the status of regional investigations. Copies of reports into the use of force causing death or serious bodily harm were also to be sent to the APM Sector. Both these reporting requirements were to commence January 1, 1996. The C.I. receives monthly status reports on all national investigations and copies of all regional investigation reports related to the Use of Force and Serious Injury. In addition, the APM Sector at National Headquarters will perform random audits of investigation reports to determine their thoroughness, timeliness and quality, initiating corrective action when required.

2. CSC does not gather data on incidents involving the use of force and does not maintain a data base permitting an analysis of the data.

Response

The CSC has been collecting data on the use of three (3) types of force since 1984-85 (physical force, gas, firearms). With the introduction of OMS, this data is available electronically, and presented to senior staff as part of the EIS, which is being made available to the staff of the C.I.

The data is broken down by type of force, region, and institution. While OMS is collecting data on eight (8) elements, the system generates information on only those three originally reported on. The Service acknowledges the C.I.'s assertion that no meaningful analysis is done on the data collected, nor is there follow-up.

Action Taken

1. In response to the Service's need for meaningful data collection and analysis on the use of force, the EIS reporting system is being modified to allow for the reporting on all eight categories of use of force.
2. The data on the use of force will be monitored by NHQ on a monthly basis and meaningful analysis of this data will be conducted by the regions on a quarterly basis.
3. The APM Sector at National Headquarters will perform periodic audits of incidents of use of force to determine whether these are appropriately investigated, and to ensure that all the required reports are being completed as per policy. Non-compliance will be pursued with the appropriate manager.

16. INMATE INJURIES

Issue

The Correctional Investigator's major concern relates to implementation of Section 19 of the *Corrections and Conditional Release Act*, which calls for investigations into deaths and serious injuries of inmates. The C.I. reports that, contrary to legislation, not all incidents are being investigated and the quality of those being completed is often inadequate.

The 1994-95 Annual Report concluded that the C.I. was advised that CSC had accepted most of the 71 recommendations contained in the *Fyffe Report: Hard Lessons, A Review of the Correctional Service of Canada's Investigative Process*. However, the C.I. has not, as yet, been advised of any specific policy or procedural changes emanating from the report.

a) Inmate Injuries

Response

Inmate injuries fall into two categories -- those injuries resulting from deliberate acts, whether on the part of the inmate himself, other inmates or staff and those injuries resulting from accidents. A new Commissioner's Directive, *Recording and Reporting of Injuries to Offenders* has been developed but, final approval is delayed while the Service develops a single definition for "serious bodily injury". This term is not defined in the *Corrections and Conditional Release Act* nor the associated regulations, although the term is used in both. There are currently three definitions in use within CSC and the proposed CD would have added a fourth definition.

Those injuries covered by deliberate acts are investigated by virtue of section 19 of the Act. Accidents are investigated in accordance with policy on Health and Safety and Inmate Compensation Examinations into the circumstances of these events and are reviewed monthly by institutional Health and Safety Committees.

Action Taken

An extensive review of past correspondence between the two agencies was completed and the following measures were put into place:

1. The regions were directed that monthly roll-ups of security investigations convened at the regional level to investigate "major injuries" or "serious bodily harm" be sent to the APM Sector at NHQ (memorandum sent to RDC's to this effect dated December 20, 1995).
2. The APM Sector has begun, as of January 1, 1996, to perform random quality control checks on regional investigation reports submitted to NHQ.
3. Representatives from the Investigation Division, Legal Services and Correctional Policy and Corporate Planning met and developed a single definition for "serious bodily injury". This was distributed to Executive Committee Members for approval but unanimous agreement was not received. The issue will have to be discussed, for a consensus approval, at the May EXCOM Meeting.
4. Once the definition is approved, it can be inserted into the new CD and can be signed off and distributed.
5. On February 6, 1996, the Senior Deputy Commissioner advised all Regional Deputy Commissioners to monitor incidents involving serious injuries and to advise that the downgrading of the seriousness of an injury in order to avoid having to conduct an investigation was an unacceptable practice that would not be tolerated.

b) Investigative Process

Response

On January 12, 1995, the *Fyffe Report* was submitted on the investigation process. On March 8, 1995, a copy of the report was sent to the C. I. In April, 1995, EXCOM discussed the report in detail and reached agreement on the Service's response to all 71 recommendations. Most of the recommendations were accepted verbatim, and action plans developed. To date, 43 of the 63 accepted recommendations have been implemented.

Action Taken

In addition to implementing the majority of the *Fyffe Report* recommendations, CSC has completed an in-depth analysis of investigations into inmate murders during the period of April 1993 to December 1994. The results of this analysis have been circulated to senior managers and presented at the Senior Manager's Conference in June 1995. The purpose is to learn whether and how CSC can prevent similar incidents in the future and respond appropriately when they do occur. (similar analysis were also completed on national investigations into hostage-takings and community incidents and the results presented in the same manner as with inmate murders.) CSC will continue analysis of investigations so that the organization can improve its operations. In addition, as recommended by the *Fyffe Report*, the Service will prepare an annual report on national investigations taking place during 1995-96.

CSC also instituted a process whereby it will verify, on-site, that the recommendations of past investigations have been implemented. To date, verification of follow-up has been completed for all investigation reports completed up to March 31, 1994. This verification exercise will be undertaken annually.

17. VISITS TO DISSOCIATION AND ITS DELEGATION

Issue

In his 1992-93 Annual Report, the C.I. mentioned that, in a number of institutions, daily visits to the Dissociation area were not taking place. He further noted that “..the Service has knowingly been in violation of its own policy since November of 1991 and the CCRA since November 1, 1992 and to date has taken no corrective action.”

The C.I.’s 1993-94 report states that the Service delegated the responsibility for visiting Dissociation to a senior manager level, down to but not below the Unit Manager. The C.I. felt that Unit Managers could not be considered senior management, and felt that delegation to a lesser level negates the intent of section 36 of the Act.

In his 1994-95 report, the C.I. mentioned the instruction CSC gave on December 22, 1994, which served as a reminder to “Wardens and Deputy Wardens to visit the segregation at least once a week, unless there are convincing reasons to the contrary...”, and indicated that this was a positive direction. His question was “will the direction be complied with and will the presence of senior management in the segregation area assist in alleviating those areas of concern associated with segregation?”

Response

In addition to the requirements of the CCRA, Section 36(2), regarding institutional management visits to segregation units, Wardens have been mandated by senior management to ensure that they, or their Deputies, visit the units not less than once per week. Commissioner’s Directive (CD 590) dated August 8, 1994, covers this issue.

Action Taken

Further to the 1992-93 Annual Report, on December 10, 1992, the Acting Commissioner wrote the C.I. and indicated that he personally opposed the policy in question and intended to raise the issue at the Service’s EXCOM in January, 1993 with a proposal to delegate the performance of this function to a lower level. Subsequent to that EXCOM meeting, the CD was amended in 1993 to stipulate that the delegation for visiting Dissociation areas will not be below level of the Unit Manager.

A further instruction was given to senior management December 22, 1994, which gave more detail to the issue, with an option to amend the CD if it still remained a troublesome issue.

In January 1996, a notice was sent to all medium and maximum institutions, including the Prison for Women and the new Federally Sentenced Women's Facilities, to report on the visiting schedule to Segregation Units over the past year. A list of visits by Wardens and Deputy Wardens was requested from all appropriate institutions for three weeks selected at random in October and November 1995.

A review and verification of segregation logs indicate that institutions are in compliance with the Act. In addition, for the majority of cases, Wardens and Deputy Wardens are making weekly visits to segregation units in their institutions. There were a few noted exceptions during the time frame that were subject to review. The results of the review were discussed with the Regional Deputy Commissioners during the EXCOM Meeting January 31-February 1, 1996.

All incidents of non-compliance will be discussed with the appropriate Wardens. In February, 1996 the Commissioner wrote to the C.I. informing of the details of the review. A similar review will be conducted in April, 1996.

**SPECIAL REPORT OF
THE CORRECTIONAL INVESTIGATOR**

**PURSUANT TO SECTION 193 CORRECTIONS AND
CONDITIONAL RELEASE ACT**

**CONCERNING THE TREATMENT OF INMATES AND
SUBSEQUENT INQUIRY FOLLOWING CERTAIN
INCIDENTS AT THE PRISON FOR WOMEN
IN APRIL 1994 AND THEREAFTER**

R.L. Stewart
Correctional Investigator
14 February 1995

Minister of Supply and Services 1995
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INTRODUCTION

This Report is submitted pursuant to Section 193 of the Corrections and Conditional Release Act (CCRA):

"193. The Correctional Investigator, may at any time, make a special report to the Minister referring to and commenting on any matter within the scope of the function, powers and duties of the Correctional Investigator where, in the opinion of the Correctional Investigator, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for the submission of the next annual report to the Minister under section 192, and the Minister shall cause every such special report to be laid before each House of Parliament on any of the first thirty days on which that House is sitting after the day on which the Minister receives it."

I hereby submit this Report, as I am of the opinion that the matters associated with the Prison for Women incidents of April 1994 are of sufficient urgency and importance that their referral to your attention could not reasonably await the submission of my next Annual Report.

The following Observations and Recommendations are the result of an extensive review undertaken by the Office of the Correctional Investigator of the incidents at the Prison for Women 22 April through 26 April and the extended Segregation of the women involved. The review included: interviews at the Prison for Women and Kingston Penitentiary, April 1994 through February 1995 with the women involved; meetings and exchanges of correspondence with the Warden of the Prison for Women, the Regional Deputy Commissioner, and the Commissioner May 1994 through January, 1995; meetings and discussions with senior representatives of the Elizabeth Fry Society in Ottawa and Kingston, with members of the Citizen Advisory Committee (Prison for Women) and lawyers representing the women involved in the April incident; an analysis of the Service's Board of Investigation Report into the incident (received 14 November 1994); a review of the Service's responses to the inmate grievances filed on the Emergency Response Team (ERT) intervention of 26 April 1994; and a review on 27 January 1995 of the video tape of the Emergency Response Team intervention of 26 April 1994.

I have attached as Annexes A and B to this Report a chronology of this Office's activities relevant to this review covering the period 15 April 1994 through 3 February 1995 as well as our detailed observations of the 26 April 1994 video tape.

OBSERVATIONS

1. *The Correctional Service of Canada failed to ensure that its investigative process into these incidents was and was seen to be open, independent and objective. The characterization of the Board of Investigation Report as a "white wash" by the offenders involved and the Elizabeth Fry Society is no surprise given the make-up of the Board.*
2. *The section of the Board of Investigation Report entitled Inmate Profile, pages 7 to 21 inclusive, provides little if any information directly relevant to the incident under investigation other than to discredit and portray the inmates involved in the most negative light possible. This detracts from the objectivity of the Report and tends to lend justification to the actions taken by the Service as evidenced in the Commissioner's January 13, 1995 letter which reads in part:*

"I understand that you received a copy of the investigation into the incidents of late April. I hope this will have brought home more forcefully the records of the women involved and the dangerousness of their actions in April."

3. *The Board of Investigation Report does not pass conclusive comment on the appropriateness of the decision to deploy the ERT.*

Although the Commissioner states that "in their report, the Investigation Team noted that: the intervention of the ERT in the segregation unit on April 26 was necessary to restore order and prevent injuries to staff as well as other inmates", the Report itself simply states under the heading The Adequacy and Effectiveness of Staff Response: "The Board of Investigation was struck by the length of time (four days) inmates were allowed to be disruptive and throw urine and feces at staff before the decision was taken to bring in the ERT. Certainly by April 26, 1994 ... some action had to be taken".

4. *The Board of Investigation did not interview the two Citizen Advisory Committee (CAC) members who attended the segregation area at the Prison for Women during the period under investigation. Both of these CAC members, at a later date, made separate representations to the Warden with regard to their concerns on the management of the situation and the continuing conditions of confinement imposed upon the women involved.*

The Chairman of the CAC was in attendance in the Segregation Unit just hours before the recommendation to call in the ERT. Over the period of an hour and a half he interviewed most if not all of the women subsequently involved in the ERT exercise. During this time period he was on the Unit by himself, no security staff were present. He notes that he did not feel threatened and that the atmosphere on the unit was "certainly calm enough that they (inmates) were able to speak to me, with great anger, with considerable anger, but rationally".

The second CAC member was in attendance at the Segregation Unit April 27, 1994 in both the morning and again that evening to witness the body cavity searches of the women involved in the ERT actions of April 26, 1994.

5. *The Board of Investigation Report, in relation to the ERT deployment decision, does not present sufficient evidence or detailing to cause one to reasonably conclude that four days of "disruptive" behaviour in segregation had culminated in a situation where there was "no alternative but to call in the ERT" as claimed by the Commissioner.*

In this regard, I note:

- *The Board of Investigation Report provides no detailing of "disruptive behaviour" from 11:30 Friday evening through till 4:30 Tuesday afternoon, with the exception of the slashing and attempted suicide on Sunday afternoon.*
- *both incidents on Tuesday evening, which appear to have precipitated the decision to call in the ERT, occurred while the staff member was alone in the Segregation Unit.*
- *the Chairman of the CAC was in the Segregation Unit, unaccompanied by security staff for an hour and a half interviewing inmates, just hours before the recommendation to call in the ERT.*
- *the Board of Investigation Report references a "report" prepared by the Correctional Supervisor recommending "that the ERT be brought in" but provides no detailing as to the content of the report or the reasons for the recommendation.*

- the Correctional Supervisor's "report" dated 26/4/94 1750 hrs. (attached as Annex E) notes that the inmates were moved to Segregation on April 22, 1994 and **NOT** searched prior to their placement in the Segregation cells, contrary to policy. The "report" further states that "given the fragile psyche of the Officers at the institution at this time, I strongly recommend that an ERT cell extraction team be brought in and all inmates in the dissociation side be taken from their cells, strip searched and placed in stripped cells". The "report" concludes; "otherwise, I fear that we will have more staff requesting stress leave and a diminished credibility towards management."
- the Board of Investigation Report further states that the Warden reads the Correctional Supervisor's report "and with the situation not improving in the Segregation area, makes the decision to request assistance of the ERT from Kingston Penitentiary". This decision is taken at 8:45 Tuesday evening, the ERT is deployed at 11:37 yet the Investigation Report provides no detailing of the inmates' behaviour in the segregation area during this three hour period.
- all of the women prior to and at the time of the ERT deployment were locked securely in their segregation cells.

The Board of Investigation Report, as I stated above, does not provide sufficient evidence or detailing to cause one to reasonably conclude that the decision taken to employ the ERT was "necessary" or the "only option". This Office requested in correspondence dated 23 November 1994, in an attempt to more reasonably reach a conclusion on this matter, copies of all observation/officer reports, offense reports, security reports and Use of Force reports for the period 22 April to 26 April 1994. As of the date of this report, the Office has not received this material.

6. The Board of Investigation Report is at best incomplete, inconclusive and self serving.
7. The video tape of the 26 April 1994 incident involving the ERT was requested in correspondence to the Regional Deputy Commissioner by this Office 23 June 1994. A further request for the video tape was made to the Commissioner's Office 7 November and again 18 November, 1994. This Office obtained access to the video 27 January 1995.

The video tape of the deployment of the ERT shows a massive display of force being exercised in the face of virtually no resistance. Even if one could accept the legitimacy of the initial decision to deploy the ERT, it is difficult to accept the continuation of this exercise given the obvious level of cooperation displayed by the inmates. The task of the ERT was to remove one woman at a time from her cell, strip the cell of all effects, and return that woman to her cell.

In the first case depicted, the woman's clothing was forcibly removed and given that the film starts during this process, it is not clear if she was initially offered the opportunity to remove her own clothes. In each case after that, the ERT members entered the cell and if the woman was not already naked, ordered the woman to remove her clothes. In all but one of these instances, the women complied, and in the case where one woman did not comply quickly enough, her clothing was also forcibly removed. Each woman was then told to kneel, naked, on the floor of her cell, surrounded by ERT members while restraint equipment was applied.

After the restraint equipment was applied, each woman was helped to her feet, backed out of the cell naked, then given a flimsy paper gown, and marched backwards by the ERT from her cell to the shower area.

The woman was then directed by the ERT, with the assistance of their batons and shields, to stand facing a wall, one member holding the woman's head against the wall, presumably so she could not see what was going on while another member held a baton close to her head.

While in the shower area, the cell was stripped of everything including the bed. Once the cell was stripped, the woman was marched backwards back to her cell. Each was placed in her cell, asked to lie or kneel on the floor, the ERT members exited, the door was locked and the woman was left without a blanket or mattress in the stripped cell with the restraint equipment still on; contrary to s.68, 69 and 70 of the CCRA. However, in one case the woman was returned to her cell, made to kneel naked on the floor surrounded by ERT members for in excess of ten minutes, while team members fumbled with the restraint equipment.

This procedure was repeated for each of the eight women involved and took in excess of two and a half hours to complete. Over the course of this time period, there was evidence of physical handling of the women by the ERT members and a number of women were poked or prodded with batons.

These incidents appeared in part to result from the women not understanding the mumbled directions given through the security helmets worn by ERT members.

There are six interruptions on the tape totalling in excess of 50 minutes of unrecorded activity.

This exercise was, in my opinion, an excessive use of force and it was without question degrading and dehumanizing for those women involved. The responsibility and eventual accountability for these actions primarily rests with those officials who ordered the intervention and those who have continued to characterize the exercise as reasonable and professional without any recognition or apparent appreciation of its effect on the women involved.

8. *The exercise was initiated to my mind for the purpose of appeasing fragile staff psyches and boosting management's diminishing credibility in the eyes of its employees.*
9. *The Commissioner's level of the grievance process responded to the grievances filed on the intervention of the ERT without having reviewed the video tape. As such, the Commissioner's level of the process has failed to ensure that the concerns raised by the women were addressed in a thorough and objective fashion.*

The detailing provided by the grievors was measurably more reflective of the events captured on the video than were the responses provided by the Senior Management of the Service.

10. *The other CAC member's diary which served as a method of recording personal impressions and keeping dates straight, notes:*

"Wednesday 10 am, I visited the cells while Bob Batter (Chairman of CAC) stayed outside the segregation door. Most were naked and very angry. Women naked or in torn paper gowns, in shackles, no mattresses, no hygiene items/utensils etc. Segregation was quite cold...at least it would seem so for a person with no clothes on.

Wednesday night--call from Mary Cassidy approx 9pm. I went to prison and witnessed the internal vaginal and rectal examinations. Women signed agreeing to the searches in exchange for showers, and each were given a cigarette around 12:30am Women were given security gowns and had one blanket to sleep on at this time. No toilet paper except as requested piece by piece--no hygiene products. Body searches went OK---no force was used by the officers etc. Most of the women seemed in ok spirits.

Issue of sanitary napkins very barbaric---great discussion over old dirty underwear---was there any clean? Image of women walking from shower with pads between their legs naked---quite unnecessary."

11. *The women were held, in some cases, for up to eight months, in segregation cells initially stripped of all amenities, subject to 24 hour a day camera surveillance and the wearing of restraint equipment whenever they left their cells. They were denied for extended periods of time bedding, clothing, including underwear, basic hygiene items, personal address books, writing material, contact with family and daily exercise. The unit was not cleaned for over a month following the April incident and Senior management was not visiting the segregation unit on a daily basis to meet with offenders as required by the legislation (s.36(2) of the CCRA), in fact this Office noted a month period where there is no record of the Unit Manager attending the area. The level of insensitivity displayed following the 26 April ERT intervention is difficult to comprehend and indefensible.*

The extended period of time spent in segregation and the conditions under which the women were forced to live were punitive and inconsistent with the legislative provisions governing Administrative Segregation (s.31(2) and s.37 of the CCRA) and the provisions governing General Living Conditions (s.68, 69 and 70 of the CCRA). The actions taken by management in perpetuating this situation had a great deal more to do with addressing staff's "low morale and feelings of powerlessness" than addressing any ongoing concerns related to individual safety or institutional security.

12. *The above concerns, related to segregation, were brought to the attention of the Service's Senior Management by this Office through correspondence and meetings commencing in April of 1994 and culminating with my correspondence of 7 November 1994 to the Commissioner of Corrections attached as Annex F and his response of January 13, 1995, attached as Annex G.*

*The Correctional Service of Canada, in responding to these concerns, has taken no action which can be seen as timely, adequate or appropriate. The Service's responses to this entire matter can be characterized as **"admit no wrong, give as little as possible and time will eventually resolve the matter"**. Hardly consistent with the Service's motto of Accountability, Integrity, Openness.*

RECOMMENDATIONS

1. *That the Correctional Service of Canada establish as policy the appointment of a civilian chairperson on Boards of Investigation into major incidents and the inclusion of civilian members on Boards of Investigation convened for incidents resulting in the use of force, bodily injury or death.*
2. *That the Service ensure that their Investigation Reports contain sufficient information so as to reasonably reflect the totality of the incident under review and the breadth of the evidence and testimony received.*
3. *That the Board of Investigation Reports contain personal information on the inmates involved only as it relates specifically to the incident under investigation.*
4. *That the convening authority for investigations thoroughly and objectively review, in a timely fashion, Investigation Reports to ensure that Accountability, Integrity, Openness has some meaning and that this requirement be clearly stated in Service policy.*
5. *That the "report" prepared on 26 April 1994 recommending that the ERT be brought in and the reasons for the Warden's decision to initiate the ERT intervention be published as an Annex to the publicly released Board of Investigation Report.*
6. *That the video tape of the ERT intervention of 26 April 1994 at the Prison for Women be made public, limited only by the privacy concerns of the inmates involved.*
7. *That the individual grievances filed by the inmates concerning the ERT intervention be further reviewed and responded to personally by the Commissioner.*

8. *That the Correctional Service of Canada desist from the practice of deploying a male Emergency Response Team against female inmates.*
9. *That the Correctional Service of Canada re-think its decision on the hiring of male frontline correctional officers and primary case workers for women's prisons. This re-thinking should include extensive consultation with those organizations initially involved in the Task Force on Federally Sentenced Women and those women currently incarcerated.*
10. *That the Correctional Service of Canada enter into immediate negotiations with those women affected by the ERT intervention and the resulting long term segregation placement for the purpose of establishing reasonable compensation packages.*

CHRONOLOGY
OFFICE OF THE CORRECTIONAL INVESTIGATOR ACTIVITIES

Prison for Women

***Administrative Segregation and Conditions of Confinement
following 22 April 1994 Incident***

- 15 April '94 *Correspondence to Warden subsequent to 21-22 March institution visit concerning the administration of "B" range.*
- 30 April '94 *Executive Assistant and Director of Investigations visit institution, conditions of offenders as observed and reported to the administration:*
- *thin/blanket mattress on floor;*
 - *dressed in quilted security gowns;*
 - *cell effects = face cloth, security blanket, paper cup;*
 - *one lit cigarette per hour;*
 - *toothpaste but no tooth brush;*
 - *three cold meals per day;*
 - *no shower since 26 April 1994;*
 - *ten minute limit on calls to lawyers;*
 - *Administrative Segregation area cold.*
- Remainder of institution on "partial lockdown" according to Deputy Warden, "full" lockdown according to Inmate Committee.*
- 5 May '94 *Executive Assistant advised that the Chairperson of C.S.C.'s Board of Investigation had called looking for information on our experiences, concerns etc. over last couple of months at Prison for Women (PFW) as she was doing the investigation into the incident. Investigator returned the telephone call and left a message twice. The Chairperson never returned the calls.*
- 6 May '94 *Five (5) inmates transferred to Regional Treatment Centre.*

11 May '94

Telephone interview with Associate Warden of the Regional Treatment Centre re: PFW inmates and their conditions of confinement. He agreed to fax us a copy of their procedures/protocol upon completion. Protocol received 14 May 1994.

19 May and
20 May '94

Director of Investigations and Investigator visit the Regional Treatment Centre and PFW.

Conditions of confinement at Regional Treatment Centre as reported to Associate Warden;

- *Not receiving 2 free phonecalls to family as at PFW;*
- *No personal effects (had to attend court in coveralls);*
- *Clothed in security gowns, have beds and security blankets;*
- *Exercise in early a.m., no coats - only coveralls, cold;*
- *Canteen only once every 2 weeks, light for cigarettes once per hour;*
- *No TV or radio, restricted library books (one at a time);*
- *Shackled and cuffed for all movement;*
- *No restriction on calls to lawyers, Elizabeth Fry or Correctional Investigator's office;*
- *Writing materials provided but not personal address books.*

Conditions of confinement at PFW-Segregation as reported to Warden;

- *Segregation area extremely dirty;*
- *No personal calls being provided;*
- *Legal calls restricted to 3 per week and calls to our office count as one legal call. Duration of calls restricted to 15 minutes;*
- *No personal effects;*
- *No daily exercise;*
- *Writing materials not consistently provided;*
- *Security blankets have not been replaced or cleaned since provided;*

- Still no beds in cells;
- No canteen privileges provided;
- Restrictions on cigarette papers and rollers.

In summary, the inmates at the Regional Treatment Centre were being treated better than those left at PFW. Follow-up letter to Warden sent 24 May 1994.

26 May and
27 May '94

Director of Investigations and Investigator visit the Regional Treatment Centre and PFW.

Conditions of confinement at Regional Treatment Centre as discussed with Associate Warden;

- *Some of previous concerns resolved i.e.: 2 free phone calls now provided, regular canteen in place, cell effects to be provided by following week after personal behavioral contracts are in place (including TV's and radios), lights for cigarettes now every 30 minutes, 2 offenders approved for correspondence courses;*
- *Director advised that shackles would come off for movement to showers next week, longer for movement to yard. Male behaviour being addressed and monitored while women were in the yard, exercise to be changed to afternoon;*
- *Issue of bedding raised for Director's review (sheets, blankets and pillows).*

Conditions of confinement at PFW-Segregation as reported to Warden;

- *Inmates required to go to exercise (tennis court) in pyjamas - male construction workers in area;*
- *Still no beds or pillows;*
- *Still no personal calls and limited lawyer calls;*
- *No lighters for some inmates;*
- *Still restrictions on rollers;*
- *Security blankets still dirty;*
- *They had received sheets and blankets, canteen although items were limited per shift, stamps, envelopes and writing materials, restraints being removed in yard.*

30 May '94

Telephone call with inmates in Segregation;

- They had received a memo from the Warden as a result of our visit indicating that they can have correspondence courses, personal calls, cigarette lighters for those without with the exception of two inmates, cigarette rollers, writing material, canteen although only 2 items per shift (cannot retain in cell), Bed for one inmate provided;
- Still not provided, pillows, beds, cleaning in unit.
- In addition, legal calls are still being restricted to 3 per week and they are still in pyjamas for yard which is only 1/2 an hour per day.

2 June '94

Letter received from Warden PFW advising;

- Protocol for segregation developed and attached;
- Written direction to be issued by Unit Manager to clarify phone privileges, exercising etc., Unit Manager to visit segregation daily to ensure items actionned;
- 2 offenders from population hired to clean Segregation;
- Personal calls being provided as per Standing Order, no restriction on legal calls, clarification to be issued vis à vis calls to our office;
- Personal effects to be reinstated as per Standing Order;
- Exercise now being provided one hour per day;
- Writing material provided;
- Blankets are now clean and being exchanged regularly;
- Full canteen allowed with exception of pop cans;
- Cigarettes no longer restricted;
- Beds have been returned to cells.

16 June '94

Investigator visited Regional Treatment Centre and PFW.

Conditions at Regional Treatment Centre - meeting with Associate Warden 16-06-94;

- All previous issues resolved. Radios provided;
- Exceptions and issues he agreed to review were; still not entire personal effects released i.e.: clothes for court,

shackles still applied, nightly confiscation of toothbrush hairbrush and pens, selections of books and provision of TV's, cleaning of unit, apparent restriction of lawyer calls;

Conditions at PFW discussed with Warden 17-06-94;

- *Most outstanding issues addressed. Mainly review of Segregation protocol and our recommendation that copy of protocol be provided to segregated offenders once promulgated;*
- *Also discussed and contested was issue of continued retention in segregation for three of the inmates;*
- *Issues followed up by letter to Warden dated 20 June 1994.*

21 June '94

Telephone follow up with A/Associate Warden of Regional Treatment Centre;

- *All personal effects being sent over today, to be kept on range;*
- *Shackles to be resolved this Friday, although in meantime they would take women to yard by elevator rather than stairs;*
- *TV's to be given out once cell effects received;*
- *Cleaning is being done by the inmates themselves;*
- *Newspapers being provided on a daily basis.*

23 June '94

Our letter to Regional Deputy Commissioner requesting a copy of the investigation, convened to review the 22 April incident and subsequent transfer of the offenders to Regional Treatment Centre, inclusive of the two video tapes

6 July '94

Letter from Warden providing segregation reviews for the three inmates contested, Warden's decision to retain in segregation.

18 July '94

Telephone conversation with Warden - Transfers to Regional Treatment Centre quashed by appeal and women to be returned to PFW.

21 July and
22 July '94

Investigator visited PFW.

Conditions of confinement as discussed with Warden on 22 July and followed up by letter dated 25 July 1994;

- *Provision of a fan and ice to offset heat was requested;*
- *Problems with personal effects received discussed;*
- *Still problems with calls to our office vs lawyers;*
- *Continued use of shackles on women returned from Regional Treatment Centre raised and a review requested;*
- *Lack of televisions for cells;*
- *Continued retention in segregation of the three inmates was again raised, as was our intention to raise the issue regionally if it was not resolved.*

27 July '94

Telephone call from PFW Liaison advising that Warden's decision is as follows; the three inmates are not to be released and shackles to be retained for another 2 months prior to re-review.

28 July '94

Letter to Regional Deputy Commissioner re: retention in segregation of the three inmates referred and conditions of confinement i.e.: shackles and recent installation of grill work on cells.

2 August '94

Letter from Warden advising that Unit Manager is reviewing issue of ice and correcting all issues related to clothing and canteen. Fans difficult to provide. Policy regarding phone calls to our office again addressed with the Correctional Officers. Shackles reviewed and decision taken to re-review after one month.

8 August '94

Response received from Regional Deputy Commissioner supporting retention in segregation of the three inmates as well as the continued use of shackles and installation of grill work.

31 August and

Investigator visited PFW - follow up letter to Warden dated

1 September '94 9 September 1994.

13 September '94 Letter to Regional Deputy Commissioner contesting his reply of 8 August 1994 re: one inmate and shackles (the other two had already been released).

15 September '94 Letter from Warden advising of her retirement and regarding issues, that shackles have been removed for movement within the Unit (showers) and contingent upon positive behaviour, will be re-reviewed for further lessening of the policy.

11 October and
October '94 Duplicate response from Regional Deputy Commissioner upholding the inmate's segregation and the continued use of shackles.

27 October and
28 October '94 Investigator visited PFW - follow up letter to A/Warden dated 31 October 1994 raising the following segregation issues;

- Lack of winter clothing personal effects;
- Policy for opening and closing of meal slots (newly installed);
- Continued lack of TV's and radios;
- Restriction on "erasers" for school work;
- Problems with breakfast time on weekends, i.e.: time taken deducted from exercise period;
- Lack of provision of canteen on rounds contrary to Segregation protocol;
- Provision of sanitary napkins;
- Continued camera monitoring.

7 November '94 Correctional Investigator's letter to Commissioner on continued retention of the offenders from the 22 April incident in Segregation and the conditions of confinement (specifically shackles, lack of TV and radios and constant camera monitoring). Also raised was lack of Senior manager visits to segregation on a daily basis as per legislation and Commissioner's Directives.

9 November and 10 November '94 Investigator visited PFW.

15 November '94 Letter from Warden advising of;

- Policy with respect to meal slots;
- Wiring for segregation would be completed by 15 November and TV's would then be allowed;
- Copy of segregation workshop and program for segregated women enclosed and requesting our review and comments;
- Corrective action taken on erasers, breakfast time, exercise time, canteen and sanitary napkins;
- Cameras in segregation to remain on.

18 November '94 Letter to Assistant Commissioner Executive Services requesting copies of the 3rd level grievance responses and a copy of the video tape of the ERT incident.

23 November '94 Letter to the Warden requesting all observation/officer reports, offense reports, security reports and Use of Force reports for the period of 22 April to 26 April 1994.

30 November and 1 December '94 Investigator visited PFW, first meeting with the new Warden. Warden advised of her release plans for the segregated women (starting 14 December with Inmate "D" and culminating by end of January 1995). Investigator provided her with office's comments on her segregation program/protocol.

In addition, Investigator advised her of the continued anomalies observed within segregation the evening before regarding canteen as well as observations from the logs and the segregated inmates that the Unit Manager had not been up in Segregation for over a month.

The issues discussed were followed up by letter dated 2 December 1994.

- 5 December '94 Letter from Warden advising that the TV's and radios were installed 5 December 1994.
- 13 December '94 Letter from Warden providing follow-up to segregation issues and providing new segregation policy/protocol, amended to address our concerns.
- 19 December '94 Meeting with Commissioner; non-response to Correctional Investigator's November 7, 1994 correspondence and access to video tape were raised. Commissioner advises that Minister to be briefed and response to "C.I. concerns will be addressed in due course". Commissioner further advised that video tape still not available.
- 6 January '95 Update obtained from Deputy Warden re: status of segregated women. Two inmates released prior to Xmas, one inmate offered release before Xmas but declined and released this date. Another inmate to be released 11 January, another inmate 17 January, and last inmate 19 January.
- All shackles removed prior to Xmas, handcuffs during movement removed gradually for each offender approximately one week prior to release. Only one inmate still handcuffed as of this date and she was no longer to be handcuffed starting 9 January 1995.
- 13 January '95 Response from Commissioner - fails to address issues raised in 7 November 1994 letter from Correctional Investigator.
- 23 January '95 All inmates released as planned.
- 27 January '95 Review of ERT intervention video tape.
- 31 January '95 Interview with Citizen Advisory Committee member who was present at the Prison for Women segregation area April 27, 1995 to witness the body cavity searches of inmates.

- 2 February '95 *Meeting with lawyers representing a number of the women involved in the April 1994 incident. Meeting with one of the women involved. Second review of the ERT intervention video tape.*
- 3 February "95 *Meeting with the Chairman of the Citizen Advisory Committee who was present in the segregation area in the late afternoon of April 26, 1994, the day the ERT was called in.*

9 JANUARY 1996

*Commission of Inquiry into Certain Events at the
Prison for Women in Kingston
Phase II: Policy Review*

Submission: Correctional Investigator Canada

**Commission of Inquiry into Certain Events at the
Prison for Women in Kingston
Phase II: Policy Review**

Submission: Correctional Investigator Canada

The Office of the Correctional Investigator approached Phase II of the Commission of Inquiry with a degree of trepidation. The Office, despite its years of experience in the field of Federal Corrections, does not view itself nor has it ever presented itself as an expert on the issues specifically associated with Federally Sentenced Women.

The Office's hope for Phase II was two fold; first, that we would be able to reasonably contribute to the discussions based on our experience, and second, and more importantly, that we would gain a better understanding and appreciation of those issues central to the management of Federally Sentenced Women. The Office's concern was that Phase II would be dominated by the Correctional Service of Canada, as self-appointed experts, to promote, unchallenged, their view of how Federally Sentenced Women should be managed.

The array of knowledge, talent, experience, dedication and passion that was brought to the table during Phase II was truly impressive and reflective of the importance of the issues under review. Through both the formal and informal format of Phase II, our hope was more than realized and our concern put quickly to rest.

This submission contains a brief commentary and series of recommendations consistent with the position taken by the Office of the Correctional Investigator over the course of Phase II and is provided for the consideration of the Commission during its review of these issues.

INTRODUCTION

The federal prison population has increased dramatically over the past three years. Although the number of new admissions from the courts has remained relatively stable, there has been a measurable decrease in the number of inmates being conditionally released in a timely fashion and a measurable increase in the number of inmates having their conditional release revoked. The end result being that more inmates are spending longer periods of time in prison.

This Office does not believe that the solution to excessive overcrowding lies in the expansion of current institutional capacity or resources. The Correctional Service of Canada over the years, with the proliferation of its institutional programming, has become dependent upon the extended period of incarceration, between parole eligibility and statutory release, to provide programming. There is evidence of a growing reluctance on the part of the Service to give reasonable consideration to early conditional release until such time as all identified programming is completed. It is our view that many of those programs could and should be completed under supervision in the community. The current population increase, caused in part by inmates remaining in institutions to complete programs, has further delayed timely access to these programs by increasing the waiting lists which in turn further extends the period of incarceration and adds to the population growth.

This cycle is unlikely to be interrupted until such time as the Service accepts and takes action on the principle that the protection of society is best served through the timely reintegration of offenders as law abiding members of the community. An initial step in addressing the issue of excessive overcrowding is to ensure that community resources and programming are readily available and reasonably responds to the identified needs of the offender population. An immediate

investment in community corrections will assist in decreasing both the length of time inmates spend in federal institutions and the number of conditional release revocations.

A continuation of business as usual in this area will only promote further population growth. Excessive overcrowding impacts measurably on; the viability of the Service's current decision-making processes; the efficiency and effectiveness of existing institutional programs; and the ability of the Service to provide equitable and just treatment in a responsive fashion to the inmate population.

Federally Sentenced Women have not been immune from this cycle of population growth. The Commission was advised during the course of Phase II that the current capacity of the newly constructed Regional Facilities has already been surpassed by the population increase in incarcerated Federally Sentenced Women.

To avoid a continued increase in the number of federally incarcerated women and the inevitable negative impact of excessive overcrowding, attention needs to be focused immediately on the processes of conditional release and community based programming.

RECOMMENDATION

- 1. That the Wardens of the Regional Facilities be specifically responsible and accountable for;**
 - a) the implementation of institutional conditional release programming which ensures that inmates are returned to the community in a timely fashion consistent with their eligibility dates,**

- b) *the development and maintenance of community based programming within their region, that is responsive to the identified needs of the inmate population, and*
- c) *the establishment of an ongoing liaison with the judiciary, crown counsel offices and the National Parole Board, to ensure that the realities of federal incarceration are understood and appreciated.*

2. *That a National Coordinator of Conditional Release and Community Corrections, reporting directly to the Commissioner of Federally Sentenced Women, be charged with the responsibility of ensuring consistent and equitable access to community related programming for all Federally Sentenced Women.*

SECURITY CLASSIFICATIONS

There appeared to be two generally accepted themes that emerged from the sessions on Managing Violence and Minimizing Risk and Crisis Management in Women's Prisons.

First, that the existing security classification instruments employed by the Service to identify risk were designed for and tested on male inmates. Although the validity of this assessment process as it applied to male inmates was a point of considerable debate, there was consensus that its relevance was basically lost when applied to female and aboriginal inmates.

Second, that the Prison for Women, because of its numerous limitations in terms of its history, structure, geography and management style, was and continues

to be an environment that generates and maintains aberrant behaviour. In fact, the Prison for Women environment was portrayed throughout Phase II as that which needed to be avoided within the development of the new Regional Facilities.

The proposed "Security Management Model" for the Regional Facilities on the other hand is rooted in and reflective of the Service's previous approaches to managing Federally Sentenced Women. As such, the model provides for far too convenient a bridge with the past for those currently mandated to implement the Service's "Vision" for the Regional Facilities.

If it is accepted that past security classification processes have not worked effectively and that the Prison for Women's environment negatively impacted upon the effective management of the inmate population, it seems only reasonable that any proposed Security Management Model would encourage a clean break with past practices and facilitate a management system which deals with individuals as individuals rather than as pre-defined security groups.

RECOMMENDATION

- 3. That the proposed "Security Management Model" be scrapped.**
- 4. That each Regional Facility, including the Healing Lodge, accept inmates based on individual needs, not security classifications.**
- 5. That programming within the Regional Facilities be available to all inmates housed in that facility.**
- 6. That administrative action, if required to address security concerns, be incident specific, corrective rather than punitive, and lifted at the earliest**

possible time to ensure continued full participation of the individual in all aspects of correctional programming.

ALTERNATIVES TO SEGREGATION

Segregation is overused, for excessive periods of time, has limited if any benefit for the individual and is excessively punitive. The Corrections and Conditional Release Act clearly defines the purpose and parameters of Segregation and establishes procedures to ensure administrative fairness in its application.

Segregation practices within the Correctional Service of Canada and specifically at the Prison for Women, show limited evidence of an understanding or appreciation of these legislative requirements.

Segregation at the Prison for Women currently and traditionally has housed, in conjunction with those administratively and punitively placed in isolation, those who require protection, those who self-injure and those who present mental health concerns. The management of the segregation unit, besides being based on tradition rather than law, has seldom displayed evidence that the individual needs of these inmates were being addressed through their placement in segregation.

The new Regional Facilities will have within their populations, inmates who are disruptive, who require protection, who self-injure and present serious mental health concerns. One of the major contributing factors to the misuse of segregation at the Prison for Women was the perception that there were no alternatives other than placement in segregation for managing these women.

Although the Service prefers to speak in terms of "enhanced units" rather than segregation, the reality is that past practices will re-emerge if clear alternatives are not established. The first step in causing the Service to think in terms of

alternatives would be for the Service to ensure that its segregation practices are consistent with the legislative provisions governing Administrative Segregation and Discipline. A further step would be to ensure that for those individuals placed in segregation, an immediate strategy is developed to address the specific areas of concern that caused the placement with the clear objective of returning the individual to general population at the earliest appropriate time. The segregation review process must be fair, allowing for input from the individual inmate, timely and objective.

RECOMMENDATION

- 7. That a training program be immediately undertaken for all institutional staff (including the Wardens) to ensure that the provisions of the Corrections and Conditional Release Act, sections 31 through 44 governing Administrative Segregation and Discipline, are understood and appreciated.**
- 8. That institutional policy clearly reflect not only the procedural requirements of the legislation but as well emphasize the principles of "returning the inmate to the general population at the earliest appropriate time" and "inmates shall not be disciplined otherwise than in accordance with the legislation", as provided for in sections 31(2) and 39 respectively.**
- 9. That a detailed strategy be developed clearly identifying the specific areas of concern that led to the placement in segregation and the actions proposed to return the individual to general population. This strategy should be provided to the Warden within two working days of the placement.**

10. ***That the institutional Independent Chairperson chair the Segregation Review Board in the case of any inmate segregated for ten days and be given the authority to order the inmate's return to general population.***

ABORIGINAL OFFENDERS

The Final Report by the Task Force on Aboriginal Peoples in Federal Corrections was published in 1989. Although the Aboriginal communities have embraced the majority of the Report's findings and recommendations, Federal Corrections has on far too many of the issues yet to take decisive action.

Section 80 of the Corrections and Conditional Release Act enacted in November of 1992 boldly states that "the Service shall provide programs designed particularly to address the needs of aboriginal offenders". As was evident from the sessions on Federally Sentenced Aboriginal Women in Prison and the Healing Lodge the Aboriginal community, inclusive of the inmate population, do not believe that these needs are being addressed. Equally evident from these sessions was the willingness of the various Aboriginal groups to actively involve themselves in the provision of the required programming. Section 81 of the Act further provides:

"81. (1) The Minister, or a person authorized by the Minister, may enter into an agreement with an aboriginal community for the provision of correctional services to aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services.

(2) Notwithstanding subsection (1), an agreement entered into under that subsection may provide for the provision of correctional services to a non-aboriginal offender.

(3) In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an offender to the care and custody of an aboriginal community, with the consent of the offender and of the aboriginal community."

The Healing Lodge concept, as presented, is a major step forward for Federal Corrections and is reflective of a consultation process driven by a will to cause meaningful change within a system that for far too long has paid only lip service to its responsibilities in this area. The Healing Lodge is a tribute to those, both inside and outside of the Service, who had the will and tenacity to move the correctional bureaucracy beyond a vision to create a reality.

The challenge now for Federal Corrections is to ensure that programming designed to meet the needs of aboriginal offenders is not limited to the confines of the Healing Lodge. There is a need to ensure that all incarcerated Federally Sentenced Women, regardless of location, have access to such programming. There is further a requirement to fund and develop community based programming so as to promote the timely reintegration of offenders back into their home communities. There is a danger, as stated earlier, of the penitentiary, in this case the Healing Lodge, being viewed as the best placement option available in the absence of strong community based programming. The goal is not to increase the number of Federally Sentenced Aboriginal Women in Prison.

RECOMMENDATION

11. That all Federally Sentenced Women's Facilities establish an Aboriginal Advisory Committee and in consultation with this Committee the Wardens establish and maintain programming specifically designed to address the needs of Aboriginal inmates.

12. *That the Warden's responsibility and accountability for conditional release and community based programming, as detailed in Recommendation #1, include aboriginal programming.*
13. *That a National Aboriginal Advisory Committee to the Commissioner of Federally Sentenced Women be established.*
14. *That a National Coordinator of Aboriginal Programming, reporting directly to the Commissioner of Federally Sentenced Women, be charged with the responsibility of liaising with Institutional and National Aboriginal Advisory Committees and ensuring the equitable development of and access to both institutional and community programming.*
15. *That the Commissioner of Federally Sentenced Women vigorously exercise the authority provided for within section 81 of the Corrections and Conditional Release Act to expand the provision of correctional services provided by aboriginal communities so as to ensure that timely conditional release is a viable option.*

CROSS GENDER STAFFING

The United Nations' Standard Minimum Rules For The Treatment Of Prisoners provides that:

- "53. (1) *In an institution for men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.*

(2) *No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.*

(3) *Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women."*

For nearly forty years, the Service's policy and practice in this area has complied with this Standard Minimum Rule. The rationale for the Service's change of policy in 1994, allowing for the employing of male front line staff in the Regional Facilities, despite the opportunities provided through Phase II, remains without reasonable explanation.

RECOMMENDATIONS

- 16. That the Correctional Service of Canada establish and implement immediately an employment policy for the Federally Sentenced Women's Facilities that is consistent with the United Nations' Standard Minimum Rule #53 For The Treatment Of Prisoners.**

MOTHER/CHILD PROGRAM

The Service's claim of a need for "further consultation" on this issue is indefensible. The failure to take decisive action, on a matter of such importance to the women affected, raised serious questions as to the overall commitment the Service has to the concept of real change and the principles provided for in the Report of the Task Force on Federally Sentenced Women.

RECOMMENDATION

- 17. That the mother/child program be implemented, without further delay, in all Regional Facilities.**

HEALTH CARE

The provision of Health Care Services within a penitentiary has and continues to be an area of serious concern for the inmate population. These concerns tend to centre around a belief that;

- the level of service provided, in part because of the limited access to second opinions and specialists, is less than that provided in the community.*
- the medical staff work for the institution not for the inmate and as such their individual interests are overshadowed by the administrative interests of the institution.*
- the confidentiality of medical records are not reasonably maintained, and*
- there is no responsive avenue of redress for grievances associated with medical decisions.*

Given the institutional environment these concerns are not unfounded. To address these issues, the Service must establish a process of consultation and delivery of medical services that is viewed as credible by the inmate population. This credibility in large part will be dependent upon the seen separation and independence of health care services from institutional administration.

A further area of concern given prominence during the session on Health Issues for Federally Sentenced Women focused on the decision of the Service not to provide twenty-four hour on-site nursing care. The basis of this decision appears to have been fiscal. The institutional environment, in conjunction with the past history of the population in terms of self injury and the pending introduction of the mother/child program all reasonably speak to the need for twenty-four hour service. The financial savings associated with this decision, in our opinion, are far outweighed by the benefits of returning to twenty-four hour on-site nursing care.

RECOMMENDATION

- 18. That each Regional Facility establish a Medical Advisory Committee, inclusive of representation from the inmate population, mandated to;**
 - monitor the Health Care Service contracts signed by the Facility, and**
 - review and make recommendations on all medical grievances submitted by inmates.**
- 19. That Health Care Service contracts be signed with medical clinics rather than individual practitioners so as to ensure reasonable access to second opinions.**
- 20. That both the development of and any subsequent changes to Health Care policy or procedure provide the inmate population with the opportunity to contribute to these decisions as required by section 74 of the Corrections and Conditional Release Act.**

21. ***That the Commissioner, in consultation with the National Health Care Advisory Council and the Privacy Commissioner, issue immediately a clear policy statement on the issues surrounding ownership, confidentiality and access to inmate medical records.***

TRANSFERS

The issue of transfers, specifically involuntary transfers, came up on numerous occasions during Phase II. Concerns were expressed with respect to the Service's position on involuntary transfers in response to the existence of incompatibles, disciplinary concerns and overcrowding. The Service's position on this matter was never clearly enunciated.

The provisions governing transfers, including the administrative fairness requirements associated with involuntary transfers, are detailed at sections 28 and 29 of the Corrections and Conditional Release Act and sections 11 through 16 of the Regulations. In addition to the above noted legislative provisions on transfers, there is a requirement for the Service to establish clear policy which reflects a position on transfers that is consistent with the objectives ascribed and the mandate given to the Regional Facilities.

RECOMMENDATION

22. ***That all Inter-Facility transfers be based on facilitating individual identified needs and that the purpose and expectations of the transfer be fully detailed prior to the move.***
23. ***That there be no Inter-Facility or Inter-Jurisdictional involuntary transfers to address overcrowding.***

- 24. That all involuntary Inter-Facility and Inter-Jurisdictional transfers, including those initiated at the Prison for Women, be authorized by the Commissioner, only when all other options have been exhausted, and that this authority not be delegated.**

GRIEVANCE PROCEDURE

The "Principles" detailed at section 4 of the Corrections and Conditional Release Act designed to guide the Service in achieving its "Purpose", states; "that correctional decisions be made in a forthright and fair manner, with access by offenders to an effective grievance process." The Act further provides at sections 90 and 91 that: "There shall be a procedure for fairly and expeditiously resolving offenders' grievances on matters within the jurisdiction of the Commissioner" and, "Every offender shall have complete access to the offender grievance procedure without negative consequences."

The importance of a fair and expeditious inmate grievance procedure is well recognized within the Corrections and Conditional Release Act. This Office's position, that the current Correctional Service of Canada grievance process is dysfunctional, is well known and has been commented upon extensively within our Annual Reports for the past decade. The evidence provided during Phase II while lending support to our position, more importantly, highlighted the lack of credibility the current procedure has with the inmate population.

The effectiveness of a grievance procedure in fairly and expeditiously resolving offender concerns, is not dependent upon the procedure's structure. It is dependent upon the commitment of senior management to make the procedure work and the willingness of the Service to objectively and thoroughly review the concerns raised. The principle enunciated within the Corrections and Conditional

Release Act/ concerning correctional decision-making and an effective grievance procedure, will not be met until such time as specific responsibility and accountability in these areas is accepted by senior management.

RECOMMENDATION

- 25. That the responsibility and accountability contracts between each of the Wardens and the Commissioner specifically identify the effective resolution of inmate grievances as a key variable in the rating of their performance.**
- 26. That an information system be established at the institutional and national levels to provide management with reliable data on the specific areas of inmate concern raised and the effectiveness of the procedure in addressing those concerns.**
- 27. That quarterly reports from all levels of the procedure, be issued providing a thorough and objective analysis of the information collected, with specific attention focused on the effectiveness of the procedure's operation and the need for any required adjustments to Service policy or procedure identified through the resolution of the grievances.**
- 28. That Inmate Grievance Committees be established at each Regional Facility, mandated and encouraged, to be actively involved in the resolution of inmate grievances.**
- 29. That a copy of the Service's quarterly reports be provided to all Inmate Grievance Committees.**

CONCLUSION

This Office was most impressed, as indicated earlier, with the level of discussion and the substantive proposals that emerged from Phase II of the Inquiry. What was measurably less impressive was the Service's contribution and comments related to the various policy issues under review. The "Vision" presented by the Service, while generally reflective of the principles detailed in Creating Choices: Report of the Task Force on Federally Sentenced Women, tended to attenuate as the sessions progressed.

This Office acknowledges both the complexity of the issues associated with the management of Federally Sentenced Women's programming and the inter-relationship of these issues with the broader area of Federal Corrections. This having been said, we cannot help but note the excessive delay on the part of the Correctional Service of Canada in taking reasonable action in addressing these matters.

The Commission, during Phase I of the Inquiry, heard extensive evidence, from a variety of sources, indicating that national policies, program initiatives and staff training have for decades failed to address the unique requirements of Prison for Women.

The base document for Phase II of the Inquiry, the Task Force Report on Federally Sentenced Women, was published in 1990. The Perron Report on Long-Term Offenders and The Final Report by the Task Force on Aboriginal Peoples in Federal Corrections were finalized in 1991 and 1989 respectively. The underlying principles and recommendations, so clearly enunciated within these Reports, remain to be reasonably incorporated into the policies and, more importantly, the practices of the Correctional Service of Canada.

In short, the existing senior bureaucracy of the Service has failed to create either the will or the mechanisms necessary to responsively address the significant, long-standing areas of concerns associated with Federally Sentenced Women's issues. This failure has perpetuated, for far too long, a systemic inequity of treatment and programming for Federally Sentenced Women.

RECOMMENDATION

- 30. *That a Commissioner, independent of the Correctional Service of Canada, for Federally Sentenced Women be appointed.***
- 31. *That the Commissioner be responsible for all Federally Sentenced Women, inclusive of those under supervision in the community and housed in provincial jurisdictions.***
- 32. *That existing exchange of service agreements with other jurisdictions for the housing or supervision of Federally Sentenced Women be reviewed to ensure equality of opportunity for all Federally Sentenced Women.***
- 33. *That the Wardens of the Regional Facilities report directly to the Commissioner.***
- 34. *That the Commissioner be supported by a National Advisory Board on Federally Sentenced Women.***
- 35. *That the National Advisory Board be mandated to submit a report annually on their operations to the Standing Committee on Justice and Legal Affairs.***

We would again like to extend our appreciation for the opportunity to have participated in Phase II of the Inquiry and if there are any questions concerning the foregoing, do not hesitate to contact our Office directly.

31. Que ce commissaire soit responsable de toutes les délinquantes fédérales, y compris celles qui sont sous surveillance dans la collectivité et celles qui sont incarcérées dans des établissements provinciaux.

32. Que les accords régissant les échanges de services avec d'autres niveaux de gouvernement pour le logement ou la surveillance des délinquantes sous responsabilité fédérale soient revus afin d'assurer l'égalité des chances à toutes les délinquantes sous responsabilité fédérale.

33. Que les directeurs des installations régionales relèvent directement de ce commissaire.

34. Que ce commissaire reçoive le soutien d'un comité consultatif national pour les délinquantes sous responsabilité fédérale.

35. Que ce comité consultatif national soit tenu de présenter un rapport annuel sur ses opérations au Comité permanent de la justice et des affaires juridiques.

Nous tenons à réitérer notre reconnaissance à ceux qui nous ont permis de participer à la partie II de l'Enquête, et si l'on a des questions concernant ce texte, que l'on n'hésite pas à contacter le Bureau directement.

correctionnels fédéraux. Cela dit, nous ne pouvons faire autrement que remarquer le temps excessif que met le Service correctionnel du Canada à prendre des mesures raisonnables pour régler ces problèmes.

Au cours de la partie I de l'Enquête, la Commission a entendu une preuve considérable, de diverses sources, qui indiquait que les politiques nationales, les programmes et la formation du personnel ne répondent pas aux besoins uniques de la Prison des femmes depuis plusieurs décennies.

Le document de base de la partie II de l'Enquête, soit le Rapport du Groupe de travail sur les femmes purgeant une peine fédérale, a été publié en 1990. Le Rapport Perron sur les délinquants purgeant une longue peine et le Rapport du Groupe d'étude sur les Autochtones au sein du régime correctionnel fédéral ont été achevés en 1991 et 1989 respectivement. Les principes et recommandations sous-jacents, qui ont été énoncés avec tant de clarté dans ces rapports, n'ont toujours pas été incorporés d'une façon raisonnable dans les politiques et, chose encore plus importante, dans les pratiques du Service correctionnel du Canada.

En bref, la haute direction actuelle du Service n'a pas suscité la volonté ou les mécanismes nécessaires pour remédier aux préoccupations importantes et déjà anciennes touchant les détenues fédérales. Ces omissions ont perpétué, pendant trop longtemps, des iniquités systémiques dans le traitement et les programmes s'adressant aux délinquantes sous responsabilité fédérale.

RECOMMANDATIONS

30. Que soit nommé un commissaire responsable des détenues fédérales, indépendant du Service correctionnel du Canada.

liens qui existent entre ces problèmes dans le contexte plus global des services programmes s'adressant aux délinquantes sous responsabilité fédérale et les

Le Bureau reconnaît la complexité des problèmes que pose la gestion des

tendance à s'exprimer au fur et à mesure que les séances avançaient.

Groupe d'étude sur les femmes purgeant une peine fédérale, avait moins

générale les principes qu'on trouve dans La création de choix : Rapport du

cause. La «vision» exprimée par le Service, même si elle reflète bien de manière

contribution et les remarques du Service relativement aux diverses politiques en

partie II de l'Enquête. Ce qui a été visiblement moins impressionnant, c'était la

par la qualité des discussions et des propositions qui se sont dégagées de la

Comme nous l'avons dit plus tôt, le Bureau a été vivement impressionné

CONCLUSION

29. **les comités des griefs des détenus.**
Qu'une copie des rapports trimestriels du Service soit fournie à tous
28. **part active à la résolution des griefs.**
Que soient établis des comités des griefs des détenus dans chaque
installation régionale, comités qui seront encouragés à prendre une
27. **qui auront été identifiées par la résolution des griefs.**
voules à la politique ou à la procédure du Service, modifications
règlement des griefs et au besoin d'apporter les modifications
particulière étant accordée à l'efficacité de la procédure de
objective et complète les informations recueillies, une attention
procédure de règlement des griefs, où seront analysées de façon
Que soient publiés des rapports trimestriels, à tous les paliers de la

position qui est bien connue et dont nous avons fait état longuement dans nos rapports annuels de la dernière décennie. La preuve qui a été réunie au cours de la partie II confirme notre position, mais ce qui est encore plus important, c'est qu'elle met en relief l'absence de crédibilité de la procédure actuelle auprès de la population carcérale.

L'efficacité d'une procédure de règlement des griefs n'est pas tributaire de sa structure. Elle est tributaire de la volonté de la haute direction de faire fonctionner cette procédure et de la volonté du Service d'examiner attentivement et objectivement les préoccupations dont on lui fait part. Le principe énoncé par la Loi sur le système correctionnel et la mise en liberté sous condition concernant le processus décisionnel correctionnel et la procédure de règlement des griefs ne sera pas respecté tant et aussi longtemps que la haute direction n'assumera pas ses responsabilités en ces matières.

RECOMMANDATIONS

25. Que les contrats de responsabilité et d'imputabilité entre les directeurs à titre individuel et le Commissaire mentionnent expressément l'établissement d'une procédure efficace de règlement des griefs comme variable essentielle dans l'évaluation du rendement.

26. Que l'on établisse un système d'information au niveau des établissements et au niveau national afin de fournir à la haute direction des données fiables sur les préoccupations des détenus et l'efficacité de la procédure dans le règlement des problèmes.

RECOMMANDATIONS

22. Que tous les transfèrements inter-installations reposent sur la nécessité de répondre aux besoins individuels, et que l'objet et les attentes relatifs au transfèrement soient expliqués en détail avant que toute mesure soit prise.
23. Qu'il n'y ait aucun transfèrement non sollicité inter-installations ou intergouvernemental pour remédier au problème de la surpopulation.

24. Que tous les transfèrements inter-installations et intergouvernementaux, dont ceux de la Prison des femmes, soient autorisés par le Commissaire, seulement quand seront épuisées toutes les autres possibilités, et que cette autorité ne soit pas déléguée.

PROCÉDURE DE RÉGLEMENT DES GRIEFS

Selon les « principes » énoncés à l'article 4 de la Loi sur le système correctionnel et la mise en liberté sous condition, qui guident le Service dans la réalisation de son « Objet : « ces décisions doivent être claires et équitables, les délinquants ayant accès à des mécanismes de règlement de griefs ». Les articles 90 et 91 de la Loi de préciser : « Est établie ... une procédure de règlement juste et expéditif des griefs des délinquants sur des questions relevant du commissaire » et « Tout délinquant doit, sans crainte de représailles, avoir libre accès à la procédure de grief ».

L'importance d'une procédure de règlement des griefs juste et expéditive est bien reconnue par la Loi sur le système correctionnel et la mise en liberté sous condition. Le Bureau est d'avis que la procédure de règlement des griefs du Service correctionnel du Canada est dysfonctionnelle à l'heure actuelle,

20. Que l'élaboration de la politique sur les soins de santé et tout changement subséquent à cette politique ou procédure permettent à la population carcérale de participer aux décisions qui sont prises, comme le veut l'article 74 de la Loi sur le système correctionnel et la mise en liberté sous condition.
21. Que le Commissaire, en consultation avec le Conseil consultatif national des soins de santé et le Commissaire à la protection de la vie privée, publie immédiatement un énoncé de politique clair concernant la possession, la confidentialité et l'accès aux dossiers médicaux des détenus.

TRANSFÈREMENTS

La question des transfèrements, particulièrement des transfèrements non sollicités, a été soulevée à de nombreuses reprises au cours de la partie II. On a exprimé des préoccupations au sujet de la position du Service sur les transfèrements non sollicités en réponse à l'existence d'incompatibilités, aux problèmes disciplinaires et à la surpopulation. La position du Service sur cette question n'a jamais été clairement énoncée.

Les dispositions régissant les transfèrements, y compris les exigences quant à l'équité administrative des transfèrements non sollicités, se trouvent aux articles 28 et 29 de la Loi sur le système correctionnel et la mise en liberté sous condition, et aux articles 11 à 16 du Règlement. Outre ces dispositions législatives régissant les transfèrements, le Service est obligé d'établir une politique claire sur les transfèrements qui doit être compatible avec les objectifs et les mandats des installations régionales.

Au cours de la séance portant sur les problèmes de santé des détenues

sous responsabilité fédérale, on s'est longuement interrogé sur la décision du

Service de ne pas fournir de services infirmiers sur place 24 heures sur 24. Cette

décision tiendrait à des considérations financières. Le milieu carcéral étant ce

qu'il est, et vu aussi les antécédents historiques de la population carcérale

relativement à l'automutilation et l'introduction prochaine du programme

mère/enfant, tout cela milite en faveur de l'établissement de ce service de

24 heures. Les économies que cette décision permettra de réaliser, à notre avis,

ne valent pas, et de loin, les avantages qu'il y aurait à rétablir des services de

soins sur place 24 heures sur 24.

RECOMMANDATIONS

18. Que chaque installation régionale établisse un comité consultatif

médical, où la population carcérale sera représentée, qui aura pour

mandat :

- de contrôler l'exécution des contrats relatifs aux services de santé

signés par l'installation, et

- de prendre connaissance de tous les griefs relatifs à la santé qui

sont soumis par des détenus et de faire des recommandations.

19. Que les contrats de services de santé soient conclus avec des

cliniques médicales plutôt qu'avec des praticiens individuels afin

d'assurer l'accès raisonnable à une seconde opinion.

SOINS DE SANTÉ

La prestation de soins de santé dans le contexte pénitentiaire demeure une préoccupation importante pour la population carcérale. On semble croire :

- que la qualité des services, en partie à cause de l'accès limité aux deuxièmes opinions et aux spécialistes, est moindre que celle dont on jouit dans la collectivité;

- que le personnel médical de l'établissement travaille moins pour les détenus que pour l'établissement, et en tant que tels, les intérêts individuels des détenus comptent moins que les intérêts administratifs de l'établissement;

- que la confidentialité des dossiers médicaux n'est pas protégée raisonnablement; enfin,

- qu'il n'existe pas de mécanisme de règlement des griefs associé aux décisions médicales.

Le milieu carcéral étant ce qu'il est, ces préoccupations ne sont pas sans fondement. Pour remédier à ces problèmes, le Service doit établir un processus de consultation et de prestation des services médicaux que la population carcérale jugera crédible. Cette crédibilité n'existera que si sont clairement séparés les services de santé et l'administration pénitentiaire.

Depuis près de 40 ans, la politique et la pratique du Service dans ce domaine sont conformes à cette règle minimale. Le Service n'a pas donné d'explication raisonnable au fait qu'il a modifié sa politique en 1994, permettant ainsi l'emploi de personnel masculin de première ligne dans les installations régionales, en dépit des possibilités que lui offrait la partie II de la Commission d'enquête.

RECOMMANDATION

16. Que le Service correctionnel du Canada établisse et mette en oeuvre immédiatement une politique d'emploi pour les installations accueillant des délinquantes qui soit compatible avec la règle minimale 53 des Nations Unies pour le traitement des prisonniers.

PROGRAMME MÈRE/ENFANT

Le Service ne peut justifier le fait qu'il lui faut procéder « à de plus amples consultations » sur cette question. L'absence de mesures décisives, sur une question qui est aussi importante pour les intéressées, soulève de graves interrogations quant aux prises de position du Service relativement à un vrai changement et aux principes énoncés dans le Rapport du Groupe de travail sur les femmes purgeant une peine fédérale.

RECOMMANDATION

17. Que le programme mère/enfant soit mis en oeuvre sans tarder dans toutes les installations régionales.

15. Que le Commissaire responsable des détenues fédérales exerce vigoureusement l'autorité qui lui est confiée aux termes de l'article 81 de la Loi sur le système correctionnel et la mise en liberté sous condition afin d'encourager la prestation de services correctionnels par les communautés autochtones, et ce, afin de s'assurer qu'une mise en liberté opportune est une option viable.

DOTATION MIXTE DANS LES PRISONS DES FEMMES

L'Ensemble de règles minima pour le traitement des détenus des Nations Unies porte que :

53. (1) Dans un établissement pour hommes et femmes, la partie de l'établissement réservée aux femmes relèvera de l'autorité d'une agente qui aura la garde des clés pour toute cette partie de l'établissement.
- (2) Aucun membre masculin du personnel ne doit entrer dans la partie de l'établissement réservée aux femmes à moins d'être accompagné d'une agente.

- (3) Seules des agentes doivent s'occuper des détenues et les surveiller. Cela n'empêche cependant pas des membres masculins du personnel, en particulier des médecins et des enseignants, de s'acquitter de leur devoir professionnel dans des établissements ou partie d'établissement réservés aux femmes.

sens que, dans le cas du Pavillon de ressourcement, on y voit la meilleure solution de placement en l'absence de bons programmes communautaires. L'objectif est de ne pas augmenter le nombre de détenues autochtones dans les établissements fédéraux.

RECOMMANDATIONS

11. Que toutes les installations fédérales pour délinquantes mettent sur pied un comité consultatif autochtone, et qu'en consultation avec ce comité, les directeurs établissent et maintiennent des programmes répondant expressément aux besoins des détenues autochtones.

12. Que la responsabilité des directeurs pour la mise en liberté sous condition et les programmes communautaires, telle qu'elle est exprimée à la recommandation n° 1, comprenne les programmes autochtones.

13. Que l'on établisse un Comité national consultatif autochtone pour le Commissaire responsable des détenues fédérales.

14. Qu'un coordonnateur national des programmes autochtones, relevant directement du Commissaire responsable des détenues fédérales, soit chargé d'assurer la liaison avec les comités consultatifs autochtones au niveau des établissements et au niveau national afin d'assurer le développement équitable des programmes en établissement et des programmes communautaires, ainsi que l'accès à ces programmes.

81. (1) Le ministre ou son délégué peut conclure avec une collectivité autochtone un accord prévoyant la prestation de services correctionnels aux délinquants autochtones et le paiement par son ministère de leur coût.
- (2) L'accord peut aussi prévoir la prestation de services correctionnels à un délinquant autre qu'un Autochtone.
- (3) En vertu de l'accord, le Commissaire peut, avec le consentement des deux parties, confier le soin et la garde d'un délinquant à une collectivité autochtone.

Le concept du Pavillon de ressourcement, tel qu'il a été formulé, constitue un progrès important pour les services correctionnels fédéraux et témoigne d'un processus de consultation poussé par une volonté d'apporter des changements importants à l'intérieur d'un système qui, depuis beaucoup trop longtemps, ne fait que semblant d'assumer ses responsabilités dans ce domaine. L'idée du Pavillon de ressourcement témoigne de la noblesse de ceux qui, à l'intérieur comme à l'extérieur du Service, ont eu la volonté et la ténacité voulues pour amener la bureaucratie correctionnelle au delà d'une vision et créer une réalité.

Il appartient maintenant au Service correctionnel du Canada de s'assurer que les programmes devant répondre aux besoins des délinquants autochtones ne se limitent pas au Pavillon de ressourcement. Il faut s'assurer que toutes les détenues sous responsabilité fédérale, peu importe l'endroit où elles se trouvent, ont accès à de tels programmes. Il faut aussi concevoir et financer des programmes communautaires qui favoriseront la réinsertion des délinquants dans leur milieu d'origine. Comme on l'a dit plus tôt, il existe un danger en ce

9. Qu'une stratégie détaillée soit mise au point afin d'identifier

clairement les problèmes qui ont provoqué la mise en isolement et les mesures qu'il faut prendre pour réinsérer le détenu dans la population carcérale générale. Cette stratégie devrait être communiquée au directeur du pénitencier dans les deux jours ouvrables suivant la mise en isolement.

10. Que le président indépendant de l'établissement préside le comité de révision de l'isolement lorsqu'un détenu est isolé depuis dix jours et qu'on lui donne l'autorité d'ordonner la réinsertion du détenu dans la population carcérale générale.

DÉTENUS AUTOCHTONES

Le Rapport final du Groupe d'étude sur les Autochtones au sein du

régime correctionnel fédéral a été publié en 1989. Même si les collectivités

autochtones étaient d'accord avec la majorité des constatations et

recommandations de ce rapport, le Service correctionnel du Canada tarde

encore à prendre les mesures voulues dans un trop grand nombre de domaines.

L'article 80 de la Loi sur le système correctionnel et la mise en liberté

sous condition qui a été promulguée en novembre 1992 dit clairement que «le

Service doit offrir des programmes adaptés aux besoins des délinquants

autochtones». Comme on l'a vu au cours des séances sur les détenues

autochtones purgeant des peines fédérales et le Pavillon de ressourcement, la

communauté autochtone, et les détenus autochtones, ne croient pas que l'on

tient compte de ces besoins. Il est également ressorti au cours de ces séances

que les divers groupes autochtones veulent participer activement à la mise en

oeuvre des programmes voulus. L'article 81 de la Loi précise en outre :

pratiques d'isolement sont compatibles avec les dispositions législatives régissant l'isolement préventif et le régime disciplinaire. Il faut aussi s'assurer que les personnes qui sont isolées font immédiatement l'objet d'une stratégie visant à remédier aux problèmes qui ont provoqué l'isolement, et ce, en vue de réintégrer ces personnes à la population carcérale générale dès que possible. Le processus d'examen de l'isolement doit être juste et il doit autoriser la contribution du détenu, en temps opportun et d'une façon objective.

RECOMMANDATIONS

7. Que soit mis au point immédiatement un programme de formation pour tout le personnel des établissements (y compris les directeurs) afin de s'assurer que sont bien comprises les dispositions de la Loi sur le système correctionnel et la mise en liberté sous condition, soit les articles 31 à 44 touchant l'isolement préventif et le régime disciplinaire.

8. Que la politique de l'établissement reflète clairement non seulement les exigences de la loi sur le plan de la procédure, mais illustre aussi les principes selon lesquels «le détenu en isolement préventif doit être replacé le plus tôt possible parmi les autres détenus du pénitencier» et «seuls les articles 40 à 44 et les règlements sont à prendre en compte en matière de discipline», comme le veulent les articles 31(2) et 39 respectivement.

MESURES DE RECHANGE À L'ISOLEMENT

On utilise l'isolement pour des périodes trop prolongées pour en faire une mesure excessivement punitive qui ne profite nullement à l'intéressé. La Loi sur le système correctionnel et la mise en liberté sous condition définit bien le but et les paramètres de l'isolement et établit des procédures qui assurent l'équité administrative de son application.

Les pratiques d'isolement au sein du Service correctionnel du Canada, et particulièrement à la Prison des femmes, témoignent d'une compréhension limitée de ces exigences législatives.

Actuellement et traditionnellement, l'aire d'isolement à la Prison des femmes réunit des détenues qui font l'objet de mesures administratives et punitives, des détenues qui ont besoin de protection, qui se mutilent et qui souffrent de problèmes de santé mentale. La gestion de cette unité d'isolement est fondée beaucoup plus sur la tradition que sur la loi, et répond rarement aux besoins individuels des détenues qui y sont placées.

Les nouvelles installations régionales abriteront, entre autres, des détenues qui dérangent, qui ont besoin de protection, qui se mutilent et qui présentent de graves problèmes de santé mentale. L'idée selon laquelle il n'y a pas de mesure de rechange autre que l'isolement pour la gestion de ces femmes est l'un des facteurs qui a contribué le plus au recours abusif à l'isolement à la Prison des femmes.

Même si le Service préfère parler «d'unités améliorées» plutôt que d'isolement, le fait est que les pratiques du passé vont se répéter si ne sont pas établies des mesures de rechange claires. Si l'on veut que le Service envisage des mesures de rechange, la première chose à faire, c'est de s'assurer que ces

Si l'on admet que les processus de classification sécuritaire utilisés dans le passé n'ont pas donné les résultats voulus et que l'environnement de la Prison des femmes a eu un effet négatif sur la gestion de la population carcérale, il ne semble que raisonnable de penser qu'il faut un Modèle de gestion de la sécurité qui rompt nettement avec les pratiques du passé et qu'il faut faciliter la mise en place d'un système de gestion où les détenus seront traités comme des personnes et non comme des catégories sécuritaires prédéfinies.

RECOMMANDATIONS

- 3. Que soit rejeté le Modèle de gestion de la sécurité qui est proposé.**
- 4. Que chaque installation régionale, y compris le Pavillon de ressourcement, accepte les détenues selon les besoins particuliers de chacune et non selon les classifications sécuritaires.**
- 5. Que les programmes au sein des installations régionales soient accessibles à toutes les détenues qui s'y trouvent.**
- 6. Que les mesures administratives, qu'il faudra prendre pour remédier à des problèmes de sécurité, soient propres à chaque incident, correctives plutôt que punitives, et que ces mesures prennent fin dès que possible pour assurer la participation pleine et continue de chaque détenu à tous les aspects de son programme correctionnel.**

CLASSIFICATIONS SÉCURITAIRES

Il y a deux idées qui semblent avoir fait consensus au cours des séances sur la Gestion de la violence et la réduction maximale du risque et sur la Gestion des situations de crise dans les prisons de femmes.

Premièrement, les instruments actuels de classification sécuritaire

qu'emploie le Service pour identifier les risques ont été conçus pour des détenus de sexe masculin et mis à l'épreuve uniquement auprès de ce groupe. Même si la validité de ce processus d'évaluation, tel qu'il s'applique aux détenus de sexe masculin, a fait l'objet d'un long débat, on s'entend pour dire qu'il n'a aucune pertinence lorsqu'il s'applique aux détenues de sexe féminin et aux détenus autochtones.

Deuxièmement, la Prison des femmes, en raison de ses limites

nombreuses attribuables à son histoire, à sa structure, à sa géographie et à son mode de gestion, était et reste un milieu qui favorise le comportement aberrant. D'ailleurs, tout au long de la partie II, on n'a cessé de dire que la Prison des femmes est tout à fait le genre d'installation qu'il faut éviter de créer dans le cadre des nouvelles installations régionales.

Le « Modèle de gestion de la sécurité » qu'on propose pour les

installations régionales prend son origine dans l'approche qu'avait adoptée le Service pour gérer les détenues sous responsabilité fédérale. En tant que tel, ce modèle constitue un pont beaucoup trop commode avec le passé pour ceux qui ont la charge de mettre en œuvre la « vision » du Service dans les installations régionales.

RECOMMANDATIONS

- 1. Que les directeurs des installations régionales soient tenus responsables :**

a) de la mise en oeuvre des programmes en établissement touchant la mise en liberté sous condition de façon à ce que les détenus soient réinsérés dans la société en temps opportun, et ce, dans le respect de leur date d'admissibilité;

b) de la création et du maintien, dans leur région, de programmes communautaires, conformes aux besoins constatés de la population carcérale;

c) de l'établissement d'un mécanisme de liaison permanent avec la magistrature, les bureaux des procureurs de la Couronne et la Commission nationale des libérations conditionnelles pour s'assurer que sont bien comprises les réalités de l'incarcération fédérale.

- 2. Qu'un coordonnateur national des mises en liberté sous condition et des services correctionnels en milieu communautaire, relevant directement du commissaire responsable des détenues sous responsabilité fédérale, soit chargé d'assurer l'accès équitable et constant aux programmes communautaires pour toutes les détenues.**

Ce cycle ne sera rompu que lorsque Service accepté et mis en pratique le principe selon lequel la société est mieux protégée si le délinquant réintègre, au moment opportun, la société comme citoyen respectueux des lois. Pour remédier au problème de la surpopulation carcérale, il faut d'abord s'assurer que l'on trouve en milieu communautaire les ressources et les programmes nécessaires pour répondre raisonnablement aux besoins identifiés de la population carcérale. En investissant immédiatement dans les services correctionnels communautaires, on pourra écourter les séjours des détenus dans les établissements fédéraux et diminuer le nombre de révolutions de la mise en liberté sous condition.

Le statu quo ne fera que favoriser la croissance de la population

carcérale. La surpopulation carcérale a des effets visibles sur la viabilité du processus décisionnel actuel du Service, sur l'efficacité et l'efficience des programmes en établissement et sur la capacité du Service de traiter équitablement la population carcérale.

Les détenues sous responsabilité fédérale ne sont pas à l'abri de ce cycle de croissance de la population carcérale. Au cours de la partie II, la Commission a été informée que la capacité des nouvelles installations régionales a déjà été dépassée par la croissance du nombre de détenues.

Si l'on veut éviter cette augmentation ainsi que les effets négatifs de la surpopulation carcérale, il faut immédiatement se pencher sur les processus régissant la mise en liberté sous condition et les programmes communautaires.

la Commission afin qu'elle en tienne compte dans son examen des questions relatives à la politique.

INTRODUCTION

La population carcérale fédérale a beaucoup augmenté au cours des trois dernières années. Même si le nombre de nouvelles condamnations est resté relativement stable, on a été témoin d'une baisse mesurable du nombre de détenus bénéficiant d'une mise en liberté sous condition au moment prévu et d'une augmentation mesurable du nombre de détenus dont la mise en liberté sous condition a été révoquée. Il en résulte qu'il y a plus de détenus qui restent plus longtemps en prison.

Le Bureau ne croit pas que la solution au surpeuplement réside dans l'expansion des ressources ou des capacités actuelles des établissements. Le Service correctionnel du Canada, au fil des ans, avec la prolifération des programmes en établissement, en est venu à compter sur la prolongation de l'incarcération, entre l'admissibilité à la libération conditionnelle et la libération d'office, pour dispenser des programmes. Le Service semble de plus en plus hésitant à envisager une mise en liberté anticipée tant et aussi longtemps que le détenu n'a pas terminé les programmes cibles. Nous sommes croyons que bon nombre de ces programmes peuvent être réalisés sous supervision en milieu communautaire. L'augmentation actuelle de la population carcérale, qui est attribuable en partie au fait que les détenus doivent rester dans les établissements pour achever les programmes qu'ils ont entrepris, n'a fait que retarder l'accès, en temps opportun, à ces programmes en allongeant les listes d'attente, ce qui a pour effet d'allonger la période d'incarcération et d'encourager la croissance de la population carcérale.

**Commission d'enquête sur certains événements survenus
à la Prison des femmes de Kingston
Partie II : Questions relatives à la politique**

Mémoire de l'Enquêteur correctionnel du Canada

Le Bureau de l'Enquêteur correctionnel envisageait avec une certaine appréhension la partie II de la Commission d'enquête. Même s'il dispose d'une longue expérience du domaine correctionnel fédéral, le Bureau ne prétend pas être un expert des questions relatives aux délinquantes sous responsabilité fédérale.

Le Bureau avait deux espoirs relativement à la partie II : premièrement, il espérait se servir de son expérience pour apporter une contribution raisonnable aux discussions; deuxièmement, et c'est peut-être le plus important, il voulait mieux comprendre les questions relatives à la gestion des détenues sous responsabilité fédérale. Le Bureau craignait que la phase II soit dominée par le Service correctionnel du Canada et que celui-ci impose sa vision de la gestion de ces détenues.

La partie II a suscité l'expression de connaissances, de talents, d'expériences, d'un dévouement et d'une passion qui témoignent de l'importance des enjeux. L'espoir que nous avions s'est plus que concrétisé et nos préoccupations ont vite été calmées au cours des discussions officielles et officielles de la partie II.

Le présent mémoire contient de brèves observations ainsi qu'une série de recommandations qui font suite à la position prise par le Bureau de l'Enquêteur correctionnel au cours de la partie II, et nous faisons tenir copie de ce mémoire à

9 JANVIER 1996

Commission d'enquête sur certains événements survenus
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l'enregistrement vidéo. Le Commissaire fait savoir que le Ministre sera informé et qu'on répondra aux préoccupations de l'Enquêteur en temps utile. Il ajoute que la bande vidéo n'est toujours pas disponible.

6 janv. 95 La sous-directrice de la PF fait le point sur la situation des femmes en isolement. Deux détenues ont réintégré la population générale avant Noël. Une autre s'est elle aussi fait offrir de quitter l'aire d'isolement avant Noël, mais elle a refusé et elle ne partira qu'aujourd'hui. Une autre détenue est censée quitter le 11 janvier, une autre le 17, et la dernière le 19.

Avant Noël, on a cessé d'utiliser les entraves, et, environ une semaine avant le départ de chaque détenue, on cesse graduellement de mettre les menottes pour les déplacements. Seule une détenue a encore des menottes, mais cette mesure devrait cesser à compter du 9 janvier.

13 janv. 95 Réception d'une réponse du Commissaire - Il n'aborde pas les questions soulevées par l'Enquêteur correctionnel dans sa lettre du 7 novembre.

23 janv. 95 Toutes les détenues sont de retour dans la population générale tel que prévu.

27 janv. 95 Nous regardons l'enregistrement vidéo de l'intervention de l'EPIU.

31 janv. 95 Entrevue avec un membre du Comité consultatif de citoyens qui a assisté comme témoin à l'examen des cavités corporelles des détenues dans le secteur d'isolement de la PF le 27 avril 1994.

2 févr. 95 Rencontre avec les avocats de plusieurs femmes impliquées dans l'incident d'avril 1994. Entretien avec l'une de ces femmes. Deuxième examen de l'enregistrement vidéo de l'intervention de l'EPIU.

3 févr. 95 Rencontre avec le président du Comité consultatif de citoyens, qui se trouvait dans l'aire d'isolement à la fin de l'après-midi du 26 avril 1994, jour où est intervenue l'EPIU.

- des mesures correctives ont été prises concernant les gommages à effacer, la question du temps alloué au déjeuner et à la période d'exercice, la cantine et les serviettes hygiéniques;
- la surveillance des cellules d'isolement à l'aide de caméras se poursuivra.

18 nov. 94 Envoi d'une lettre au commissaire adjoint, Services à la haute direction, pour lui demander des copies des réponses aux griefs au troisième palier et une copie de l'enregistrement vidéo de l'intervention de l'EPIL.

23 nov. 94 Envoi d'une lettre à la directrice de la PF pour lui demander tous les rapports et observations d'un agent, rapports d'infraction, rapports de sécurité et rapports sur l'usage de la force qui ont trait à la période allant du 22 au 26 avril 1994.

30 nov. et 1^{er} déc. 94 L'Enquêteur visite la PF et rencontre pour la première fois la nouvelle directrice. Celle-ci l'avise de son plan de réintégration des détenues en isolement dans la population générale (qui débutera le 14 décembre avec la détenue «D» pour se terminer à la fin de janvier 95). L'Enquêteur lui donne l'avis du Bureau sur le programme/protocole d'isolement.

En outre, l'Enquêteur l'informe qu'il a observé encore des anomalies la veille dans le secteur d'isolement au sujet des cantines et que, d'après les registres et ses conversations avec les détenues, le gestionnaire d'unité n'est pas allé à l'unité d'isolement depuis plus d'un mois.

Les questions discutées sont reprises dans une lettre datée du 2 décembre.

5 déc. 94 Réception d'une lettre de la directrice de la PF qui annonce que les téléviseurs et les radios seront installés le 5 décembre.

13 déc. 94 Réception d'une lettre de la directrice de la PF qui fait le point sur les questions relatives à l'isolement et qui contient une politique et un protocole en matière d'isolement qui ont été révisés à la lumière de nos commentaires.

19 déc. 94 Rencontre avec le Commissaire; nous lui demandons pourquoi la lettre du 7 novembre de l'Enquêteur correctionnel est restée sans réponse et nous exprimons notre désir de prendre connaissance de

11 oct. 94	Réception d'une réponse similaire du sous-commissaire régional, qui continue d'appuyer le maintien de la détenue en isolement et l'utilisation des entraves.	
27 et 28	L'Enquêteur visite la PF - envoi à la directrice oct. 94 intérimaire d'une lettre datée du 31 octobre qui aborde les questions suivantes au sujet de l'isolement :	
	<ul style="list-style-type: none"> - détenues privées des effets personnels nécessaires pour l'hiver; - règle concernant l'ouverture et la fermeture des guichets de cellule (nouvellement installés); - il n'y a toujours pas de téléviseurs ni de radios; - distribution limitée de gommes à effacer pour les travaux scolaires; - la fin de semaine, le temps pris pour le petit déjeuner est soustrait de la période d'exercice; - provisions insuffisantes de la cantine itinérante, ce qui est contraire au protocole touchant l'isolement; - distribution de serviettes hygiéniques; - maintien de la surveillance par caméra. 	
7 nov. 94	Envoi d'une lettre de l'Enquêteur correctionnel au Commissaire à propos du maintien en isolement des détenues depuis l'incident du 22 avril et de leurs conditions de détention (particulièrement l'utilisation d'entraves, l'absence de radios et de téléviseurs et la surveillance constante au moyen d'une caméra). L'Enquêteur signale aussi que l'unité d'isolement n'est pas visitée chaque jour par un cadre supérieur, ce qu'exigent pourtant la loi et des directives du Commissaire.	
9 et 10 nov. 94	L'Enquêteur visite la PF.	
15 nov. 94	Réception d'une lettre de la directrice de la PF qui traite de ce qui suit :	<ul style="list-style-type: none"> - Règle concernant les guichets de cellule; - le 15 novembre au plus tard, le câblage aura été entièrement installé dans l'aire d'isolement et les téléviseurs seront alors autorisés; - on nous demande notre avis sur l'atelier et le programme pour les détenues en isolement dont une copie est annexée à la lettre;

		<p>les trois détenues sont toujours en isolement - nous remettons la question sur le tapis et nous faisons connaître notre intention de nous adresser au niveau régional si elle n'est pas résolue.</p>
27 juill. 94	94	<p>L'agent de liaison de la PF nous appelle pour nous faire part de la décision de la directrice : les trois détenues ne seront pas retournées dans la population générale et les entraves seront utilisées deux autres mois avant qu'il y ait un réexamen.</p>
28 juill. 94	94	<p>Envoi d'une lettre au sous-commissaire régional à propos du maintien en isolement des trois détenues ainsi que des conditions de détention, à savoir l'utilisation d'entraves et la récente installation d'un grillage sur les cellules.</p>
2 août 94	94	<p>Réception d'une lettre de la directrice de la PF annonçant que le gestionnaire d'unité est en train d'examiner la question de la glace et de régler toutes les questions relatives aux vêtements et à la cantine. Il est difficile de fournir des ventilateurs. La politique concernant les appels au Bureau de l'Enquêteur a été discutée à nouveau avec les agents de correction. L'utilisation des entraves a été reconsidérée et il a été décidé de réexaminer la situation dans un mois.</p>
8 août 94	94	<p>Réception d'une réponse du sous-commissaire régional qui souscrit à la décision de maintenir en isolement les trois détenues, de continuer d'utiliser les entraves et d'installer des grillages.</p>
31 août et 1 ^{er} sept. 94	94	<p>L'Enquêteur visite la PF - envoi à la directrice d'une lettre de rappel datée du 9 septembre.</p>
13 sept. 94	94	<p>Envoi d'une lettre au sous-commissaire régional pour opposer des arguments à sa réponse du 8 août au sujet d'une détenue et des entraves (les deux autres ont déjà réintégré la population générale).</p>
15 sept. 94	94	<p>Réception d'une lettre de la directrice de la PF dans laquelle elle annonce sa retraite et précise que les entraves ne sont plus employées pour les déplacements à l'intérieur de l'unité (allée et venue entre les cellules et les douches) et que, si les détenues se conduisent bien, on réexaminera la situation en vue d'assouplir encore la règle.</p>

21 juin 94	Communication téléphonique avec le directeur adjoint interimaire du CRT pour voir où en sont les choses :	
	Tous les effets personnels actuellement renvoyés seront gardés dans les rangées;	-
	la question des entraves est censée se régler vendredi; entre-temps, les femmes seront amenées à la cour par l'ascenseur plutôt que par l'escalier;	-
	des téléviseurs seront fournis aux détenues une fois que les effets de cellule auront été reçus;	-
	ce sont les détenues elles-mêmes qui font le nettoyage; des journaux sont distribués chaque jour.	-
23 juin 94	Envoi d'une lettre au sous-commissaire régional pour lui demander une copie du rapport du comité chargé d'enquêter sur l'incident du 22 avril et le transfèrement postérieur des détenues au CRT, et une copie des deux bandes vidéo.	
6 juill. 94	Réception d'une lettre de la directrice de la PF annonçant que les trois cas d'isolement contestés seront réexaminés; décision de la directrice de maintenir ces trois détenues en isolement.	
18 juill. 94	Conversation téléphonique avec la directrice de la PF - la décision de transférer les détenues au CRT a été cassée en appel, de sorte qu'elles seront retournées à la PF.	
21 et 22 juill. 94	L'Enquêteur visite la PF.	
	Conditions de détention qui ont été discutées avec la directrice le 22 juillet et qui ont fait l'objet d'un rappel dans une lettre datée du 25 juillet :	
	- Les détenues auraient besoin d'un ventilateur et de glace parce qu'il fait chaud;	-
	- il y a des problèmes en ce qui a trait aux effets personnels reçus;	-
	- la question de la prise en compte des communications avec le Bureau de l'Enquêteur dans le nombre des communications avec les avocats n'est pas encore tout à fait réglée;	-
	- on continue de mettre des entraves aux femmes revenues du CRT - nous demandons un examen de la situation;	-
	- il n'y a pas de téléviseur dans les cellules;	-

- clarifiée;
- des effets personnels seront fournis à nouveau conformément à l'Ordre permanent;
- la séance d'exercice quotidienne dure maintenant une heure;
- matériel pour écrire fourni;
- les couvertures sont maintenant propres et changées régulièrement;
- accès à tous les articles de la cantine, sauf les boissons gazeuses;
- aucune restriction sur les cigarettes;
- lits remis dans les cellules.

16 juin 94 L'Enquêteur visite le CRT et la PF.

Conditions au CRT - rencontre avec le directeur adjoint le 16-06-94 :

- Toutes les questions précédemment soulevées ont été réglées. Les détenues ont maintenant une radio;
- Il y a quelques exceptions et certaines questions qu'il accepte d'examiner : certains effets personnels ne sont toujours pas distribués (p. ex. vêtements pour l'exercice sur le court de tennis), les entraves sont encore utilisées, confiscation chaque soir de la brosse à dents, de la brosse à cheveux et des stylos; problèmes concernant le choix des livres, les téléviseurs et le nettoyage de l'unité; communications avec les avocats encore soumises à des restrictions apparemment.

Conditions à la PF discutées avec la directrice le 17-06-94 :

- La plupart des questions à régler l'ont été. Principalement, examen du protocole concernant l'isolement et recommandation du Bureau d'en distribuer une copie aux détenues en isolement lorsqu'il aura été adopté;
- Autre aspect discuté et déploré : maintien de trois des détenues dans l'aire d'isolement;
- envoi à la directrice d'une lettre de rappel, datée du 20 juin.

30 mai 1994

Communication téléphonique avec les détenues gardées dans le secteur d'isolement :

- toujours pas de lits ni d'oreillers;
- toujours pas d'appels personnels et encore des restrictions sur les communications avec les avocats;
- certaines détenues sont privées de briquet;
- accès encore restreint aux rouleuses;
- couvertures de sécurité encore sales;
- draps et couvertures distribués; accès à la cantine, mais seulement un certain nombre d'articles par quart de travail; timbres, enveloppes et matériel pour écrire fournis; restrictions supprimées dans la cour.

2 juin 1994

Réception d'une lettre de la directrice de la PF nous avisant de ce qui suit :

- À la suite de notre visite, elles ont reçu une note de la directrice de l'établissement indiquant qu'elles peuvent suivre des cours par correspondance, faire des appels personnels et avoir un briquet si elles n'en ont pas déjà (sauf pour deux détenues), une rouleuse et du matériel pour écrire, et avoir accès à la cantine (seulement deux articles par quart de travail, qui ne peuvent être conservés dans la cellule); une détenue a eu un lit;
- toujours pas de lit ni d'oreiller, et unité pas nettoyée;
- de plus, les communications avec les avocats demeurent limitées à trois par semaine et les détenues continuent à faire de l'exercice en pyjama dans la cour, seulement une demi-heure par jour.

- Le protocole concernant l'isolement a été établi et est annexé à la lettre;
- le gestionnaire d'unité diffusera une directive écrite afin de clarifier certains points concernant l'accès au téléphone, l'exercice physique, etc. Il visitera le secteur d'isolement chaque jour pour s'assurer que la directive est appliquée;
- deux détenues de la population générale embauchées pour nettoyer l'aire d'isolement;
- les appels personnels sont autorisés conformément à l'Ordre permanent; il n'y a aucune restriction sur les communications avec les avocats; la question des

26 et 27
mai 94

Le directeur des Enquêtes et l'Enquêteur visitent
le CRT et la PF.

- les couvertures de sécurité n'ont jamais été remplacées ni
nettoyées;
 - toujours pas de lit dans les cellules;
 - aucun accès à la cantine;
 - accès restreint à des feuilles de papier à cigarette et à une
rouleuse.
- En résumé, les détenues transférées au CRT sont mieux traitées
que celles qui sont restées à la PF. Une lettre de rappel est
envoyée à la directrice le 24 mai 1994.

Conditions de détention au CRT discutées avec le directeur
adjoint :

- Certains des aspects déplorés antérieurement ont été
corrigés : maintenant, droit à deux appels gratuits, accès
régulier à la cantine et droit à du feu pour allumer une
cigarette toutes les 30 minutes; engagement à fournir des
effets de cellule aux détenues (y compris une radio et un
téléviseur) d'ici à la semaine suivante après la conclusion
d'un pacte avec chacune d'elles au sujet de leur
comportement; deux détenues autorisées à suivre des
cours par correspondance;
- le directeur de l'établissement fait savoir que le port
d'entraves sera éliminé la semaine suivante en ce qui
concerne les déplacements jusqu'aux douches, et plus
tard pour ce qui est des déplacements jusqu'à la cour. On
exerce une surveillance le temps que les femmes sont
dans la cour afin qu'elles ne soient pas importunées par
les hommes; la séance d'exercice aura désormais lieu
l'après-midi.
- la question de la literie est soumise à l'examen du
directeur (draps, couvertures et oreillers).

Conditions de détention à l'unité d'isolement de la PF signalées à
la directrice :

- Détenues obligées d'aller faire de l'exercice (court de
tennis) en pyjamas - travailleurs de la construction à
proximité;

11 mai 94

Entrevue téléphonique avec le directeur adjoint du CRT à propos des détenues de la PF et de leurs conditions de détention. Il consent à nous envoyer par télécopieur une copie de leur procédure/protocole quand cela sera prêt. Nous recevrons le protocole le 14 mai.

19 et 20
mai 94

Le directeur des enquêtes et l'Enquêteur visitent le CRT et la PF.

Conditions de détention au CRT signalées au directeur adjoint :

- pas droit à deux communications téléphoniques gratuites avec des membres de la famille comme à la PF;
- aucun effet personnel (détenues obligées de se présenter en cour vêtues d'une combinaison);
- détenues vêtues d'une tenue de sécurité; elles ont un lit et une couverture de sécurité;
- exercice physique au début de la matinée - détenues vêtues uniquement d'une combinaison, il fait froid;
- cantine accessible seulement une fois par deux semaines - les détenues ont droit d'avoir du feu pour s'allumer une cigarette une fois l'heure;
- pas de téléviseur ni de radio, accès restreint aux livres de la bibliothèque (un à la fois);
- entraves et menottes pour chaque déplacement;
- aucune restriction sur les communications téléphoniques avec les avocats, la Société Elizabeth Fry ou le Bureau de l'Enquêteur correctionnel;
- détenues peuvent avoir du matériel pour écrire, mais elles sont privées de leur carnet d'adresses.

Conditions de détention dans le secteur d'isolement de la PF signalées à la directrice de l'établissement :

- Aire d'isolement extrêmement sale;
- aucun appel personnel;
- droit à trois communications téléphoniques par semaine avec un avocat, ce qui inclut celles avec le Bureau de l'Enquêteur; appels limités à trois minutes;
- aucun effet personnel;
- pas d'exercice physique tous les jours;
- + matériel pour écrire pas toujours fourni;

CHRONOLOGIE DES ACTIVITÉS DU BUREAU DE L'ENQUÊTEUR CORRECTIONNEL Prison des femmes

Isolément préventif et conditions de détention après l'incident du 22 avril 1994

15 avril 94 Envoi d'une lettre à la directrice de la Prison des femmes (PF) à la suite d'une visite à l'établissement les 21 et 22 mars concernant l'administration de la rangée B.

30 avril 94 L'adjoïnte administrative et le directeur des enquêtes visitent l'établissement - voici les conditions de détention qui ont alors été observées et signalées à l'administration :

- matelas mince ou simple couverture à même le sol;
- détenues vêtues d'une tenue matelassée;
- effets disponibles dans la cellule : débarbouillette, couverture de sécurité, gobelet en papier;
- droit à du feu pour allumer une cigarette une fois l'heure;
- pâte dentifrice, mais pas de brosse à dents;
- trois repas froids par jour;
- dernière douche remonte au 26 avril 1994;
- communications téléphoniques avec les avocats limitées à dix minutes;
- il fait froid dans l'aire d'isolément préventif.

Dans le reste de l'établissement, une partie des détenues sont en isolement cellulaire au dire de la sous-directrice, la totalité des détenues selon le Comité des détenues.

5 mai 94 L'adjoïnte administrative fait savoir que la présidente du comité chargé par le SCC d'enquêter sur l'incident a appelé au Bureau pour savoir ce que nous avons remarqué ou déploré à la PF au cours des deux derniers mois. L'Enquêteur la rappelle et lui laisse un message deux fois. La présidente ne le rappellera jamais.

6 mai 94 Cinq (5) détenues sont transférées au Centre régional de traitement (CRT).

consultation auprès des organisations initialement représentées au sein du Groupe d'étude sur les femmes purgeant une peine fédérale et des femmes actuellement en prison.

10. Que le Service correctionnel du Canada entame immédiatement des négociations avec les femmes ayant subi l'intervention de l'EPJU et une longue période de détention à l'unité d'isolement par la suite afin de s'entendre avec elles sur un dédommagement raisonnable.

2. Que le Service correctionnel du Canada veille à ce que ses rapports d'enquête contiennent suffisamment de renseignements pour donner une bonne idée de la totalité de l'incident à l'étude ainsi que de l'ensemble des éléments de preuve et témoignages recueillis.
3. Que les seuls renseignements personnels sur les détenus qui soient contenus dans les rapports des comités d'enquête soient ceux ayant directement trait à l'incident en question.
4. Que l'autorité instituant les enquêtes fasse rapidement un examen approfondi et impartial des rapports d'enquête afin de s'assurer que les principes d'impartialité, d'intégrité et de transparence ne sont pas que des mots vides de sens, et que cette exigence soit clairement énoncée dans la politique du Service.
5. Que le « rapport », daté du 26 avril 1994, recommandant le recours à l'Équipe pénitentiaire d'intervention en cas d'urgence (EPIU) et les motifs de la décision de la directrice de l'établissement de faire appel à l'EPIU soient annexés au rapport du comité d'enquête qui sera rendu public.
6. Qu'on rende public l'enregistrement vidéo de l'intervention de l'EPIU à la Prison des femmes le 26 avril 1994, tout en tenant compte des préoccupations des détenues concernées quant à leur intimité.
7. Que le Commissaire lui-même réexamine les griefs individuels déposés par les détenues à l'égard de l'intervention de l'EPIU et y réponde.
8. Que le Service correctionnel du Canada ne fasse plus appel à une équipe d'intervention en cas d'urgence composée d'hommes pour maîtriser des détenus de sexe féminin.
9. Que le Service correctionnel du Canada reconsidère sa décision d'embaucher des hommes dans les établissements pour femmes aux postes d'agent de correction et d'agent chargé du cas, dont les titulaires sont directement en contact avec les détenues. Ce réexamen devrait comprendre une vaste

La longue période d'isolement qu'on a fait subir aux femmes et les conditions de vie qui leur ont été imposées avaient un caractère punitif et allaient à l'encontre des dispositions législatives régissant l'isolement préventif (par. 31(2) et art. 37 de la LSCMLC) et des dispositions déterminant les Conditions de détention (art. 68, 69 et 70 de la LSCMLC). Les mesures prises par la direction qui ont fait perdurer la situation avaient beaucoup plus à voir avec le moral bas des membres du personnel et leur sentiment d'impuissance qu'avec la nécessité d'éliminer toute menace à la sécurité des personnes et de l'établissement.

12. Le Bureau a communiqué les préoccupations susmentionnées en matière d'isolement à la haute direction du Service par la voie de lettres ou de rencontres entre avril 1994 et le 7 novembre 1994, date de la lettre adressée au commissaire du Service correctionnel, qui figure à l'annexe F (la réponse du Commissaire se trouve à l'annexe G).

13. Aucune des mesures prises par le Service correctionnel du Canada en réponse à ces préoccupations ne pourrait être qualifiée de rapide, d'appropriée ou de suffisante. La consigne générale dans toute cette affaire semblait être la suivante : « **gardons-nous de reconnaître nos torts et disons-en le moins possible, le temps finira bien par arranger les choses** ». On est loin de la devise du Service : Imputabilité, Intégrité, Transparence.

RECOMMANDATIONS

1. Que le Service correctionnel du Canada ait pour politique de désigner une personne de la collectivité pour présider les comités chargés d'enquêter sur des incidents majeurs et d'inclure des personnes de la collectivité dans les comités chargés d'enquêter sur des incidents ayant comporté l'usage de la force ou ayant entraîné des lésions corporelles ou la mort.

d'isolement. La plupart des détenues sont nues et très en colère. Les femmes sont nues ou revêtues d'une tenue de papier déchirée et portent des fers aux pieds; il n'y a pas de matelas, d'articles de toilette, d'ustensiles, etc. Il fait assez froid dans le secteur d'isolement, du moins pour une personne nue. Mercredi soir -- reçois un appel de Mary Cassidy vers 21 h. Je me rends à la prison et j'assiste aux examens des cavités corporelles. Les femmes signent une déclaration dans laquelle elles acceptent d'être fouillées en échange d'une douche. Chacune d'entre elles reçoit une cigarette vers 0 h 30 et se voit remettre une tenue de sécurité et une couverture pour la nuit. Le papier hygiénique n'est distribué que sur demande; elles ne reçoivent aucun article de toilette. L'examen des activités corporelles se passe bien -- les agents n'ont pas besoin d'avoir recours à la force, etc. La plupart des femmes semblent avoir un bon moral.

Toute la question des serviettes hygiéniques est très barbare -- longue discussion au sujet des vieux sous-vêtements sales -- y en avait-il de propres? Images de femmes nues revenant des douches, une serviette entre les jambes -- ce n'était vraiment pas nécessaire. »

11.

Dans certains cas, les femmes ont été gardées jusqu'à huit mois dans des cellules d'isolement, dont on avait retiré toutes les commodités dès le départ, sous la surveillance continue d'une caméra; chaque fois qu'elles quittaient leur cellule, on leur mettait des dispositifs de contrainte. Durant de longues périodes, elles ont été privées de literie, de vêtements (notamment de sous-vêtements), d'articles hygiéniques de base, de leurs carnets d'adresses, de matériel pour écrire, de contacts avec leurs familles et de séances d'exercice quotidiennes. L'unité d'isolement est restée plus d'un mois sans être nettoyée après l'incident d'avril, et les cadres supérieurs n'y sont pas allés chaque jour pour y rencontrer les détenues, comme l'exige la loi (par. 36(2) de la LSCMLC); en fait, le Bureau a constaté que, durant un mois complet, aucune visite du gestionnaire d'unité n'a été enregistrée. L'insensibilité dont on a fait preuve à la suite de l'intervention de l'EPLU le 26 avril est difficile à comprendre et inexcusable.

Ces incidents semblent être dus en partie au fait que les femmes ne comprenaient pas bien les instructions émises par les membres de l'EPLU à travers leurs casques de sécurité.

Le film s'interrompt six fois, de sorte que plus de 50 minutes n'ont pas été enregistrées.

À mon avis, une force excessive a été déployée durant cette opération, qui a été sans contre-dit dégradante et déshumanisante pour les femmes concernées. La responsabilité de ces actions et l'obligation d'en rendre compte, tôt ou tard, pèsent principalement sur les autorités qui ont ordonné l'intervention et celles qui, après coup, ont soutenu que l'opération avait été une mesure raisonnable et appliquée avec professionnalisme, sans reconnaître ni apparemment être conscientes qu'elle avait eu des répercussions sur les femmes touchées.

8. À mon sens, cette opération a été ordonnée dans le but de remonter le moral chancelant des membres du personnel et de relever à leurs yeux la crédibilité, en baisse, de la direction.

9. Les griefs déposés relativement à l'intervention de l'EPLU ont été traités au palier du Commissaire, dans le cadre de la procédure de règlement des griefs, sans qu'il y ait examen de la bande vidéo. Cela veut donc dire que les femmes n'ont pas eu droit à un examen approfondi et impartial de leurs motifs de plainte.

Les détails donnés par les plaignantes correspondaient pas mal plus à ce qui avait été enregistré sur vidéo que les réponses fournies par la haute direction du Service.

10. Le journal que tenait l'autre membre du CCC pour consigner ses impressions personnelles et bien se rappeler des dates des événements mentionne ceci :

« Mercredi, 10 h, je visite les cellules pendant que Bob Batter

[président du CCC] se trouve de l'autre côté de la porte du secteur

Dans le premier cas filmé, la femme est déshabillée de force, comme le film débute au moment où cela se passe, nous ne savons trop si on lui avait d'abord demandé de le faire elle-même. Dans chaque cas par la suite, les membres de l'EPLU pénétraient dans la cellule et ordonnaient à la femme de se dénuder, si ce n'était déjà fait (toutes les femmes ont obéi, sauf une qui, tardant à s'exécuter, a été elle aussi dévêtue de force). On la faisait ensuite s'agenouiller, nue, sur le sol, entourée de membres de l'EPLU, pendant qu'on lui mettait du matériel de contrainte.

Ensuite, on l'aidait à se remettre debout, on la faisait sortir à reculons, nue, de sa cellule avant de lui remettre une tenue en papier mince, puis l'EPLU la faisait marcher à reculons jusqu'aux douches.

S'aidant de leurs matraques et de leurs boucliers, les membres de l'EPLU faisaient ensuite placer la femme face au mur, l'un d'entre eux lui tenait la tête contre le mur, probablement pour qu'elle ne puisse voir ce qui se passait, pendant qu'un autre tenait une matraque près de sa tête.

Une fois que la femme était dans le secteur des douches, tout ce qui se trouvait dans sa cellule, le lit y compris, était retiré. On la faisait ensuite revenir à reculons à sa cellule, où on lui demandait de s'agenouiller ou de s'étendre sur le sol; puis les membres de l'EPLU sortaient et verrouillaient la porte, laissant la femme dans la cellule vide, sans couverture ni matelas, portant toujours les dispositifs de contrainte, ce qui va à l'encontre des prescriptions des articles 68, 69 et 70 de la LSCMLC. Dans un cas, la femme a été retournée dans sa cellule, où on l'a fait s'agenouiller, nue, sur le sol durant plus de dix minutes, entourée de membres de l'EPLU, pendant que d'autres membres manipulaient le matériel de contrainte.

On a procédé ainsi pour chacune des huit femmes; l'opération a duré plus de deux heures et demie au total. Durant cette période, les femmes ont manifestement été malmenées physiquement par les membres de l'EPLU, et un certain nombre d'entre elles ont été poussées ou aiguillonnées avec des matraques.

23 h 37, le rapport d'enquête ne dit cependant rien sur le comportement des détenues dans le secteur d'isolement durant cet intervalle de trois heures.

- Avant le début de l'intervention de l'EPILU et au moment de celle-ci, toutes les femmes étaient enfermées dans leur cellule d'isolement.

Le rapport d'enquête, comme je l'ai déjà mentionné, ne contient pas suffisamment d'indications ni de détails pour qu'il y ait des motifs raisonnables de conclure que la décision de faire venir l'EPILU était nécessaire et constituait l'unique solution. Afin d'être davantage à même d'en arriver à une conclusion à ce sujet, le Bureau de l'Enquêteur correctionnel a demandé, dans une lettre datée du 23 novembre 1994, des copies de tous les rapports et observations d'un agent, rapports d'infraction, rapports de sécurité et rapports sur l'usage de la force qui avaient trait à la période allant du 22 au 26 avril 1994. Au moment de la rédaction du présent rapport, le Bureau n'avait toujours rien reçu.

6. Au mieux, on peut dire du rapport du comité d'enquête qu'il est incomplet, qu'il est peu concluant et qu'il sert les intérêts du Service.

7. Dans une lettre adressée au sous-commissaire régional, le 23 juin 1994, le Bureau a demandé l'enregistrement vidéo de l'incident du 26 avril 1994 dans lequel était impliquée l'EPILU. Il a réitéré sa demande, cette fois auprès du Bureau du Commissaire, le 7 novembre puis le 18 novembre. Il a finalement pu prendre connaissance de l'enregistrement le 27 janvier 1995.

L'enregistrement vidéo de l'intervention de l'EPILU montre un déploiement de force massif face à une quasi-absence de résistance. Même en admettant que la décision de faire appel à l'EPILU ait été justifiée au départ, on peut difficilement approuver la poursuite de l'opération alors que les détenues étaient manifestement disposées à coopérer. La tâche de l'EPILU était de faire sortir les femmes une à une de leurs cellules pour en retirer tous les effets et de les y retourner.

À cet égard, je note ceci :

- Le rapport d'enquête ne fait état d'aucun « comportement perturbateur » entre le vendredi, 23 h 30, et le mardi, 16 h 30, sauf le dimanche après-midi, où une détenue s'est infligée des coupures et une autre a tenté de se suicider.
- Au moment où se sont produits les deux incidents du mardi soir, qui semblent avoir été déterminants dans la décision d'appeler l'EPLU, le membre du personnel était seul dans l'unité d'isolement.
- Juste quelques heures avant qu'il soit recommandé d'avoir recours à l'EPLU, le président du CCC avait passé une heure et demie à converser avec les détenues, sans être accompagné par un membre du personnel de sécurité.
- Le rapport d'enquête fait mention d'un « rapport » rédigé par le surveillant correctionnel qui recommandait « de faire appel à l'EPLU », mais il ne donne aucun détail sur le contenu de ce rapport, ni sur les motifs de cette recommandation.
- Le « rapport » du surveillant correctionnel, daté du 26-04-94, 17 h 50 (voir annexe E), mentionne que les détenues ont été placées dans des cellules de l'aire d'isolement le 22 avril 1994 et n'ont **PAS** subi de fouille au préalable, ce qui est contraire à la politique. Le « rapport » dit également ceci : « Vu le moral fragile des agents dans l'établissement en ce moment, je recommande vivement de faire venir une équipe d'extraction des cellules (EPLU), de faire sortir de leurs cellules toutes les détenues placées en isolement, de procéder à une fouille à nu et de les placer dans des cellules vidées de leur contenu ». Enfin, l'auteur du « rapport » conclut ainsi : « Sinon, je crains que nous devions faire face à une augmentation des demandes de congé pour cause de stress et à une diminution de la confiance à l'égard de la direction ».
- Le rapport de la commission d'enquête dit également que la directrice de l'établissement lit le rapport du surveillant correctionnel et comme « la situation ne s'améliore pas dans l'aire d'isolement, elle prend la décision de demander l'aide de l'EPLU du pénitencier de Kingston ». Cette décision est prise le mardi à 20 h 45 et l'EPLU intervient à

détenues », mais, en fait, ce qu'on peut lire dans le rapport, sous le titre L'à-propos et l'efficacité de l'intervention du personnel, c'est simplement ceci : « Le Comité d'enquête a été frappé par la période (quatre jours) pendant laquelle les détenues ont pu adopter un comportement nuisible et lancer de l'urine et des excréments sur le personnel avant que la décision soit prise de faire appel à l'EPLU. De toute évidence, le 26 avril 1994... il fallait intervenir d'une manière ou d'une autre ».

4. Le comité d'enquête n'a pas interrogé les deux membres du Comité consultatif de citoyens (CCC) qui ont été dans le secteur d'isolement de la Prison des femmes durant la période visée par l'enquête. Ultérieurement, ces deux personnes ont, chacune de leur côté, protesté auprès de la directrice de l'établissement contre la façon dont la situation avait été maîtrisée et le maintien en isolement des femmes impliquées. Le président du CCC se trouvait dans l'unité d'isolement quelques heures seulement avant qu'il soit recommandé de recourir à l'EPLU. Durant l'heure et demie qu'il y a passée, il s'est entretenu avec la plupart, pour ne pas dire la totalité, des femmes qui allaient plus tard faire l'objet de l'intervention de l'EPLU. Il était seul dans le secteur à ce moment-là; il n'y avait aucun membre du personnel de sécurité. Il a noté qu'il ne s'était pas senti menacé et que l'atmosphère était certainement assez calme pour que les détenues soient en mesure de lui parler rationnellement, même si leurs propos dénotaient énormément de colère.

L'autre membre du CCC s'est rendu à l'unité d'isolement le 27 avril 1994 durant la matinée, puis à nouveau dans la soirée afin d'être présent comme témoin à l'examen des cavités corporelles des femmes touchées par l'intervention de l'EPLU la veille.

5. En ce qui regarde la décision de demander l'aide de l'EPLU, le rapport du comité d'enquête ne contient pas suffisamment d'indications ni de détails pour qu'il y ait des motifs raisonnables de conclure que, après quatre jours de comportement « perturbateur » dans l'aire d'isolement, la situation en était rendue au point où il n'y avait « d'autre choix que de faire appel à l'EPLU », comme l'a déclaré le Commissaire.

« l'intervention de l'EPLU à l'unité d'isolement le 26 avril était nécessaire pour rétablir l'ordre et pour éviter des blessures au personnel et aux autres »

Selon le Commissaire, le comité d'enquête dit dans son rapport que

quant au bien-fondé de la décision de faire appel à l'EPLU.

3. Le rapport du comité d'enquête ne renferme aucune remarque concluante
- « Je crois savoir que vous avez reçu copie du rapport d'enquête sur l'incident survenu à la fin d'avril. J'espère que, maintenant, les antécédents des femmes impliquées et le caractère dangereux des actes qu'elles ont commis en avril apparaîtront beaucoup plus clairement. »
2. À la section du rapport d'enquête intitulée *Profil des détenues*, pages 8 à 33 inclusivement, le comité ne fournit à peu près aucun renseignement directement lié à l'incident visé par l'enquête, si ce n'est pour discréditer les détenues impliquées et les présenter sous un jour le plus défavorable possible. Cela fait douter de l'objectivité du rapport et ouvre la porte à la justification des mesures prises par le Service, comme en témoigne la lettre du Commissaire, en date du 13 janvier 1995, qui se lit en partie comme suit :
1. Le Service correctionnel du Canada n'a pas veillé à ce que l'enquête sur les incidents en question soit, tant en apparence que dans les faits, menée de façon transparente, indépendante et impartiale. Étant donné la composition du comité d'enquête, il n'est pas étonnant que les délinquantes concernées et la Société Elizabeth Fry aient qualifié son rapport d'entreprise de disculpation.

OBSERVATIONS

Les activités menées par le Bureau dans le cadre de son examen entre le 15 avril 1994 et le 3 février 1995 figurent en ordre chronologique à l'annexe A, et une description détaillée du contenu de l'enregistrement vidéo du 26 avril 1994 se trouve à l'annexe B.

Le présent rapport est soumis aux termes de l'article 193 de la Loi sur le système correctionnel et la mise en liberté sous condition (LSCMLC) :

« 193. L'enquêteur correctionnel peut, à toute époque de l'année, présenter au ministre un rapport spécial sur toute question relevant de ses pouvoirs et fonctions et dont l'urgence ou l'importance sont telles, selon lui, qu'il serait contre-indiqué d'en différer le compte rendu jusqu'à l'époque normale du rapport annuel suivant; le ministre fait déposer le rapport spécial devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant sa réception. »

Je présente ce rapport parce que j'estime que les questions liées aux incidents survenus à la Prison des femmes en avril 1994 sont à ce point urgentes et importantes que je ne peux raisonnablement pas attendre jusqu'au moment du dépôt de mon prochain rapport annuel pour les signaler à votre attention.

Les Observations et les Recommandations formulées ci-après découlent de l'examen approfondi que le Bureau de l'Enquêteur correctionnel a effectué concernant les incidents qui se sont produits à la Prison des femmes entre le 22 et le 26 avril et l'isolement prolongé des femmes impliquées. Cet examen a consisté en ceci : entrevues avec les femmes en cause à la Prison des femmes et au pénitencier de Kingston, d'avril 1994 à février 1995; rencontres et échange de correspondance avec la directrice de la Prison des femmes, le sous-commissaire régional et le Commissaire, de mai 1994 à janvier 1995; rencontres et discussions avec des membres de la direction de la Société Elizabeth Fry, à Ottawa et à Kingston, avec des membres du Comité consultatif de citoyens (Prison des femmes) et les avocats des femmes impliquées dans l'incident d'avril; analyse du rapport (reçu le 14 novembre 1994) du comité chargé par le Service d'enquêter sur l'incident; examen des réponses du Service aux griefs déposés par les détenues relativement à l'intervention de l'Équipe pénitentiaire d'intervention en cas d'urgence (EPIU) le 26 avril 1994; examen, le 27 janvier 1995, de l'enregistrement vidéo de l'intervention de l'EPIU le 26 avril 1994.

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RAPPORT SPÉCIAL DE

L'ENQUÊTEUR CORRECTIONNEL

PRÉSENTÉ EN VERTU DE L'ARTICLE 193 DE LA
LOI SUR LE SYSTÈME CORRECTIONNEL ET LA
MISE EN LIBERTÉ SOUS CONDITION

AU SUJET DE L'ENQUÊTE SUR CERTAINS INCIDENTS

SURVENUS À LA PRISON DES FEMMES EN AVRIL 94
ET DU TRAITEMENT DES DÉTENUES PAR LA SUITE

R.L. Stewart
Enquêteur correctionnel
Le 14 février 1995

La vérification des registres des aires d'isolement indique que les établissements se conforment à la Loi. En outre, dans la majorité des cas, les directeurs et sous-directeurs font des visites hebdomadaires aux aires d'isolement de leurs établissements. Quelques exceptions ont été relevées au cours de cette période, exceptions qui font l'objet d'un examen. Les résultats de l'examen ont été discutés par les sous-commissaires régionaux lors de la réunion du Comité de direction des 31 janvier et 1^{er} février 1996.

Tous les cas où la politique n'est pas respectée seront examinés avec les directeurs en cause. En février 1996, le Commissaire a écrit à l'EC pour l'informer des détails de cet examen. Un examen semblable aura lieu en avril 1996.

et il y voyait là un pas dans la bonne direction. « Cette directive sera-t-elle mise en oeuvre et la présence de la haute direction dans l'aire d'isolement aidera-t-elle à réduire les préoccupations liées à l'isolement? » se demandait-il.

Réponse

Outre les exigences de l'article 36(2) de la LSCMLC, concernant les visites effectuées par les dirigeants du pénitencier dans les aires d'isolement, la haute direction du SCC a enjoint les directeurs de pénitencier de se rendre, eux ou la personne qu'ils auront déléguée, dans ces aires au moins une fois par semaine. La directive du Commissaire (DC 590) en date du 8 août 1994 traite de cette question.

Suivi

À la suite du Rapport annuel de 1992-1993, le commissaire intérimaire écrivait à l'EC le 10 décembre 1992 pour lui dire qu'il s'opposait personnellement à la politique en question et qu'il avait l'intention de soulever le point à la réunion du Comité de direction prévue pour janvier 1993 et de proposer de déléguer cette responsabilité à un palier inférieur. À la suite de la réunion du Comité de direction, la DC a été modifiée en 1993 de façon à préciser que la délégation de responsabilité pour les visites aux aires d'isolement ne devait pas être inférieure au niveau de gestionnaire d'unité.

Une nouvelle instruction a été communiquée aux gestionnaires supérieurs le 22 décembre 1994, fournissant plus de détails sur cette question; le SCC se réservant la possibilité de modifier la DC si le problème persistait.

En janvier 1996, le SCC demandait à tous les établissements à sécurité moyenne et maximale, y compris la Prison des femmes et les nouvelles installations pour détenues, de lui faire parvenir le calendrier des visites effectuées dans les aires d'isolement au cours de la dernière année. On a demandé à des établissements de transmettre la liste des visites effectuées par les directeurs et sous-directeurs au cours de trois semaines choisies au hasard en octobre et novembre 1995.

Outre la mise en oeuvre de la majorité des recommandations du *Rapport Fyffe*, le SCC a terminé une analyse en profondeur des enquêtes sur les meurtres de détenus au cours de la période allant d'avril 1993 à décembre 1994. Les gestionnaires supérieurs ont pris connaissance des résultats de cette analyse et en ont discuté à la conférence des gestionnaires supérieurs de juin 1995. Il s'agit de déterminer comment le SCC peut prévenir de tels incidents et quelles mesures il doit prendre lorsqu'ils se produisent. (Une analyse semblable a été faite sur les enquêtes nationales concernant les prises d'otages et les incidents communautaires, et les résultats de ces analyses ont été présentés de la même manière que ceux qui portaient sur les meurtres de détenus.) Le SCC poursuit son analyse des enquêtes afin de pouvoir améliorer ses opérations. En outre, comme le demandait le *Rapport Fyffe*, il rédigera un rapport annuel sur les enquêtes nationales effectuées en 1995-1996.

Le SCC a également établi un processus qui lui permettra de vérifier sur place la mise en oeuvre des recommandations découlant des enquêtes antérieures. À ce jour, la vérification du suivi a été faite pour tous les rapports d'enquête jusqu'au 31 mars 1994. Cet exercice de vérification se fera annuellement.

17. VISITE DES AIRES D'ISOLEMENT ET DÉLÉGATION

Question

Dans son Rapport annuel de 1992-1993, l'EC disait qu'il ne se faisait pas de visites dans l'aire d'isolement dans bon nombre d'établissements. Il notait en outre que «... le Service enfreint en toute connaissance de cause sa propre politique depuis novembre 1991 et la Loi sur le système correctionnel et la mise en liberté sous condition depuis le 1^{er} novembre 1992, et n'a pris jusqu'à maintenant aucune mesure pour remédier à la situation».

Dans son rapport de 1993-1994, l'EC disait que le Service avait confié par délégation la responsabilité des visites des aires d'isolement à un niveau de gestion supérieur qui ne devait pas être inférieur à celui de gestionnaire d'unité. L'EC était d'avis qu'on ne pouvait considérer les gestionnaires d'unité comme des cadres supérieurs et craignait que cette délégation à un niveau inférieur ne contrevienne à l'esprit de l'article 36 de la Loi.

Dans son rapport de 1994-1995, l'EC citait l'instruction du SCC du 22 novembre 1994, qui rappelait aux «directeurs et sous-directeurs de visiter l'aire d'isolement au moins une fois la semaine, sauf s'ils ont de bonnes raisons d'agir autrement».

Après un examen exhaustif des échanges de lettres entre les deux organismes, les mesures suivantes ont été mises en place :

1. Les régions ont été enjointes de fournir, chaque mois, un rapport récapitulatif de toutes les enquêtes de sécurité sur les « blessures majeures » ou les « lésions corporelles graves », au secteur IMR de l'administration centrale (note de service aux sous-commissaires régionaux en date du 20 décembre 1995).

2. Le secteur IMR a entrepris, depuis le 1^{er} janvier 1996, des vérifications qualitatives au hasard des rapports d'enquête régionaux transmis à l'administration centrale.

3. Des représentants de la Division des enquêtes, des Services juridiques, de la Politique correctionnelle et de la Planification générale se sont rencontrés et ont mis au point une définition unique de ce qui constitue une « blessure corporelle grave ». Cette définition a été soumise à l'approbation du Comité de direction, mais n'a pas reçu l'aval unanime. La discussion reprendra à la réunion du Comité de direction de mai en vue de parvenir à un consensus.

4. Une fois la définition approuvée, elle pourra être ajoutée à la nouvelle DC et communiquée à tout le personnel.

5. Le 6 février 1996, le Sous-commissaire principal a demandé à tous les sous-commissaires régionaux de prendre connaissance des incidents où il y a eu blessure grave et de faire savoir que le fait d'atténuer la gravité d'une blessure afin d'éviter de faire enquête constituait une pratique inacceptable qui ne serait pas tolérée.

b) Processus d'enquête

Réponse

Le Rapport Fyffe sur le processus d'enquête a été présenté le 12 janvier 1995. Le 8 mars 1995, une copie du rapport a été envoyée à l'EC. En avril 1995, le Comité de direction a discuté du rapport en profondeur et s'est entendu sur la suite que le Service devait donner aux 71 recommandations. La plupart ont été acceptées telles quelles et des plans d'action ont été mis au point. À ce jour, 43 des 63 recommandations qui ont été acceptées ont été mises en oeuvre.

où il y a mort d'un détenu ou blessures graves. L'EC signale que, contrairement à la Loi, on ne fait pas enquête sur tous les incidents, et que la qualité des enquêtes laisse souvent à désirer.

Dans son Rapport annuel de 1994-1995, l'EC disait avoir été informé que le SCC avait accepté la plupart des 71 recommandations que contenait le *Rapport Fyffe : Les leçons de l'expérience : examen de la procédure d'enquête du Service correctionnel Canada*. Cependant, l'EC n'a pas encore été informé que des modifications avaient été apportées à la politique ou aux pratiques à la suite du rapport.

a) Blessures subies par les détenus

Réponse

Il y a deux catégories de blessures faites aux détenus : celles qui résultent d'actes délictueux, qu'ils soient commis par le détenu lui-même, d'autres détenus ou le personnel, et les blessures qui résultent d'accidents. Une nouvelle directive du Commissaire relativement aux rapports sur les blessures faites aux détenus a été mise au point, mais son approbation a été retardée parce que le Service n'a pas encore réussi à trouver une définition satisfaisante de l'expression « blessure corporelle grave ». Cette expression n'est définie ni dans la *Loi sur le système correctionnel et la mise en liberté sous condition*, ni dans son règlement d'application, même si on l'emploie dans les deux textes de loi. Il y a actuellement trois définitions en usage au SCC, et la DC proposée en ajouterait une quatrième.

On fait enquête sur les blessures résultant d'actes délictueux, selon ce que prescrit l'article 19 de la Loi. On fait enquête sur les blessures accidentelles, comme le demande la politique sur la sécurité et la santé et sur les examens relatifs à l'indemnisation des détenus, et les rapports qui en découlent sont examinés mensuellement par les comités de santé et de sécurité des établissements.

2. Le SCC ne réunit pas de données sur les incidents où il y a eu recours à la force et n'a pas de base de données permettant l'analyse des données.

Réponse

Depuis 1984-1985, le SCC réunit des données sur trois types de recours à la force (force physique, gaz, armes à feu). Depuis l'instauration du SGD, on a accès à ces données électroniquement et on les communique au personnel supérieur dans le cadre du SICS, données qui sont transmises au personnel de l'EC.

Les données sont ventilées selon le type de recours, les régions et les établissements. Même si le SGD réunit des données sur huit éléments, le système génère des informations seulement sur ces trois catégories. Le Service est d'accord avec l'EC pour dire qu'on ne fait pas d'analyse des données obtenues et reconnaît qu'il n'y a pas de suivi.

Suivi

1. Étant donné le besoin qu'a le Service de réunir des données fiables et d'analyser les incidents où il y a eu recours à la force, le SICS a été modifié afin de faciliter la rédaction de rapports sur les huit catégories de recours à la force.
2. L'administration centrale va prendre connaissance mensuellement des données sur le recours à la force mensuellement, et les régions feront une analyse de ces données sur une base trimestrielle.
3. Le secteur IMR de l'administration centrale procédera à des vérifications périodiques des incidents où il y a eu recours à la force afin de déterminer si l'on a fait l'enquête voulue et si les rapports requis ont été établis conformément à la politique. Les cas de non-respect de la politique seront signalés au gestionnaire compétent.

16. BLESSURES SUBIES PAR LES DÉTENUÉS

Question

La principale préoccupation de l'Enquêteur correctionnel sur cette question a trait au respect de l'article 19 de la Loi sur le système correctionnel et la mise en liberté sous condition, aux termes duquel il faut faire enquête dans tous les cas

La question soulevée par l'EC ne semble pas avoir trait à la nécessité de l'enquête, mais plutôt à ce qui constitue une enquête minutieuse au sens de la politique. Des discussions subséquentes avec le gestionnaire chargé des enquêtes (24 novembre 1995) et la rencontre de l'EC et de représentants du SCC qui avait eu lieu plus tôt (18 octobre 1995) ont permis de clarifier cette question. À cette dernière réunion, le directeur exécutif du Bureau de l'EC a reconnu qu'une enquête au sens de la LSCMLC n'était pas nécessaire dans tous les cas. Il a admis aussi que le SCC avait la discrétion voulue pour déterminer le type de rapport nécessaire.

Ce qui fait problème, toutefois, c'est le caractère opportun et la qualité des enquêtes. On s'attend à ce que celles-ci soient approfondies et complètes et à ce que soit effectuée une vérification pour s'assurer que, conformément à la politique du SCC, ont été établis tous les rapports requis et ont été respectées les modalités. Par conséquent, on estime que la politique actuelle du SCC sur le recours à la force est suffisante et qu'il n'y a pas lieu d'y apporter de modification. Cependant, le Service admet qu'il faut mettre en place des modalités qui permettront de contrôler la qualité et le caractère opportun des rapports d'enquête sur le recours à la force, et de s'assurer que sont prises les mesures correctives voulues.

Suivi

Le SCC a demandé aux sous-commissaires régionaux, dans une note de service en date du 20 novembre 1995, de fournir des rapports mensuels sur l'état des enquêtes régionales. Il leur a demandé également d'envoyer au secteur de l'imputabilité et de la Mesure du rendement des copies des rapports sur le recours à la force ayant causé la mort ou des lésions corporelles graves. Ces deux exigences entraient en vigueur le 1^{er} janvier 1996. L'EC reçoit déjà les rapports intermédiaires mensuels sur toutes les enquêtes au niveau national et des copies de tous les rapports d'enquête au niveau régional relatifs au recours à la force et aux blessures graves. En outre, le secteur IMR de l'administration centrale procédera à des vérifications au hasard des rapports d'enquête afin d'en déterminer la méticulosité, le caractère opportun et la qualité, et demandera, au besoin, que soient apportés des correctifs.

La DC 605 dit clairement que la tenue d'une enquête sera ordonnée par le directeur de l'établissement après un incident où l'on a eu recours à la force. Les normes et lignes directrices opérationnelles en matière de sécurité préventive exigent, elles aussi, qu'un rapport soit présenté au directeur de l'établissement sur tout incident où il y a eu utilisation de la force. La liste des cas d'utilisation de la force comprend tous les types de force auxquels a recours le personnel et qui sont approuvés, exception faite des ordres donnés de vive voix. La DC dit en outre que l'examen du rapport par le directeur de l'établissement peut constituer une enquête selon la définition qu'en donne la DC 605.

Dans trois cas, le directeur de l'établissement n'a d'autre choix que de faire faire une enquête : lorsque le détenu subit une blessure grave, lorsque le détenu meurt et lorsque le directeur a des doutes sur le type de force employé.

Réponse

contre des détenus.

1. On ne fait pas enquête sur tous les incidents où la force est utilisée

L'EC recommandait également la création d'une base de données en vue de faciliter le contrôle et l'analyse de ces incidents, et en vue de réduire le plus possible le nombre d'incidents où la force est utilisée.

à la force étaient considérés comme des cas habituels, sans que soit faite une enquête minutieuse. Le rapport recommandait que soit faite une enquête complète sur tous les incidents et que soit énoncée clairement la responsabilité qu'ont les cadres supérieurs de s'assurer que sont menées des enquêtes objectives et que sont prises des mesures correctives.

Le Commissaire a soulevé cette question de nouveau à la réunion du Comité de direction de janvier 1996. Il a réaffirmé qu'il fallait imposer des sanctions aux employés qui ne portent pas leur insigne d'identité, et qu'il s'attendait à ce que les directeurs et les sous-commissaires régionaux fassent respecter la politique. Le personnel supérieur en visite dans les établissements verra si cela se fait.

14. DÉCISIONS RENDUES PAR LES TRIBUNAUX DISCIPLINAIRES

Question

En 1992-1993, une plainte faisant suite à un manquement mineur à la discipline a révélé l'absence de registre des audiences disciplinaires. L'EC était préoccupé par le fait que le SCC ne conserve pas en tout temps des registres des audiences disciplinaires, ce qui contrevient à la politique du SCC et au règlement relatif à la LSCMLC, et il recommandait que le Service fasse faire une vérification afin de s'assurer que sont respectées ces politiques et pratiques disciplinaires.

Réponse

Le Service est en train de terminer une vérification du processus disciplinaire chez les détenus, vérification qui a été entamée en novembre 1995. Au cours de cette vérification, il a été tenu compte, lorsque cela était justifié, des préoccupations et des questions soulevées par l'EC.

Suivi

Le rapport de vérification devrait être soumis à la fin de mai 1996.

15. RECOURS À LA FORCE - ENQUÊTE ET SUIVI

Question

Dans son Rapport annuel de 1992-1993, l'EC recommandait au SCC de modifier sa politique pour s'assurer qu'une enquête minutieuse et objective est faite sur tout incident où il y a eu recours à la force, et que les mesures correctives qui s'imposent sont prises dans les délais voulus. Dans son rapport de 1994-1995, l'EC s'est dit de nouveau préoccupé par le fait que de nombreux cas de recours

13. PORT DE L'INSIGNE D'IDENTITÉ

Question

La question du port de l'insigne d'identité a été soulevée pour la première fois, en 1984, au moment de l'enquête de l'Enquêteur correctionnel au sujet du pénitencier Archambault. Dans son Rapport annuel de 1988-1989, l'EC signalait la nécessité pour tous les employés du SCC en uniforme ou en civil de porter l'insigne d'identité. Dans le rapport de 1990-1991, l'EC disait qu'il n'était pas «raisonnable de retarder d'encore 18 mois la mise en application d'une décision de principe». Dans son rapport de 1993-1994, l'EC disait que même si une décision avait été prise par le Comité de direction en mai 1993, il espérait que la question était réglée. Dans son rapport de 1994-1995, l'EC mentionnait une fois de plus qu'il suffisait «de se rendre dans un certain nombre de pénitenciers fédéraux pour y voir que la politique sur le port de l'insigne d'identité n'est pas uniformément appliquée. Je continue de croire qu'il est inadmissible que le public ne puisse savoir le nom des fonctionnaires à qui il a affaire, surtout quand il s'agit d'agents de la paix. Je recommande donc de nouveau au Commissaire de donner une directive sur cette question pour que tous soient tenus d'appliquer cette politique.»

Réponse

La politique actuelle du Service sur le port de l'insigne d'identité est énoncée dans le *Guide des règles de tenue et de conduite*. En mai 1993, le Comité de direction du Service a décidé qu'à compter du 1^{er} juillet suivant, tous les employés (en uniforme ou en civil) seraient obligés de porter l'insigne d'identité.

Suivi

En réponse à cette question qui a été soulevée de nouveau dans le rapport de l'EC de 1994-1995, le Commissaire a informé les sous-commissaires, à la réunion du Comité de direction de novembre 1995, que dès le 21 février 1996, tout le personnel des unités opérationnelles, y compris celui des administrations régionales, devrait porter leur insigne d'identité. Il soulignait en outre que le personnel de l'administration centrale était maintenant tenu de porter l'insigne d'identité.

pour ceux dont les compétences sociales ou professionnelles sont insuffisantes ou qui souffrent d'une déficience intellectuelle et dont les infractions résultent généralement de leur incapacité de réussir dans le monde en général. Et il y a le groupe «cas/contrôle» pour les détenus qui ont éprouvé une instabilité générale au cours de leur vie et dont les infractions sont attribuables à des problèmes émotifs graves, des problèmes de toxicomanie ou des perceptions de soi négatives.

Suivi

Le Service a fait un sondage auprès des établissements à sécurité moyenne et maximale en juillet et août 1994 afin de déterminer s'il y avait des détenus qui avaient été déclarés mentalement incompétents aux termes de la loi provinciale. Il n'y en avait aucun. S'il devait y en avoir, ces détenus seraient transférés à une installation de santé mentale régionale. Dans de tels cas, les services de santé mentale prennent part au traitement et à la gestion du cas du détenu conformément à la loi provinciale qui s'applique.

Dans sa réponse de février 1995, le Service proposait d'examiner cette question sous trois angles. Premièrement, on demandait à l'EC de noter toute plainte qu'il recevrait à ce sujet ou les cas qui lui seraient signalés sans qu'une plainte soit portée et d'en communiquer les détails au Service qui prendrait les mesures voulues. On a demandé aussi des copies des rapports qui avaient déjà été faits à ce sujet. À notre connaissance, aucun cas n'a encore été signalé.

Deuxièmement, on a demandé au conseiller national, Services de santé, de discuter de cette question avec les conseils d'administration des centres psychiatriques régionaux afin de déterminer dans quelle mesure le Service devrait adopter les mécanismes auxquels peuvent avoir recours les patients dans les installations provinciales de santé mentale, par exemple les défenseurs des patients. Cela a été fait. En conséquence, on s'est dit d'avis que les pratiques actuelles fonctionnent bien et que le Service n'a pas besoin d'adopter de nouvelles mesures dans ce domaine.

Enfin, on a demandé aux directeurs administratifs des installations régionales de santé mentale de discuter de cette question avec les équipes de vérification dans le cadre du processus de vérification de la Commission canadienne des normes hospitalières afin d'obtenir leur avis.

agressions sexuelles. Cependant, le Service est à réexaminer l'utilisation des drogues dans les prises d'otages et il proposera de nouvelles lignes directrices à la suite de cet examen.

Pour éviter de nouveaux retards dans les changements, le soin d'élaborer le Manuel de sécurité du Service a été confié au Secteur de la politique correctionnelle et de la planification corporative.

Le Service prépare actuellement une liste de contrôle dont se serviront les responsables de la gestion des situations d'urgence (soit les directeurs) dans de tels cas. Elle sera incorporée aux directives régissant la gestion de crises.

12. INCAPACITÉ MENTALE

Question

La question des mesures prises par le Service afin de placer un détenu sous curatelle ou tutelle, en vertu d'une loi provinciale ou autre, lorsque le Service estime que celui-ci souffre d'incapacité mentale, a été soulevée en août 1991. Dans son Rapport annuel de 1994-1995, l'EC signalait que des progrès importants avaient été réalisés en ce sens au cours de l'année dans la mesure où l'on se préoccupait de cette question et où l'on s'employait à établir une politique. L'EC concluait son rapport en disant qu'il comptait sur une approche coopérative pour le règlement de cette question.

Réponse

Le Service a réagi en clarifiant un certain nombre de points concernant cette préoccupation générale : la définition légale de l'incapacité mentale; l'absence d'uniformité dans les lois fédérales concernant la curatelle; et l'aide aux détenus qui sont peut-être compétents sur le plan juridique, mais qui sont incapables de faire face aux difficultés de la vie quotidienne. À ce sujet, le Service a réitéré son intention de construire ou de convertir 6 % de son espace cellulaire pour accueillir les détenus atteints de troubles mentaux et leur donner l'aide dont ils ont besoin pour affronter les difficultés de la vie quotidienne.

Le personnel facilite la gestion des cas grâce à une approche axée sur le client appelée Stratégie de gestion de cas. Les risques et les besoins ainsi que les points forts et les points faibles sont identifiés en vue de la mise au point des modèles de traitement différentiel pour cinq groupes de clients. Les détenus qui sont atteints d'incapacité mentale ou qui sont vulnérables sont classés dans deux groupes régis par cette stratégie. Il y a la «structure environnementale»

Suivi

Un rapport de recherche récent du SCC a montré que la nature des prises d'otages évoluait, et que l'on passait des revendications traditionnelles à des événements plus violents, lesquels faisaient intervenir tout particulièrement des

Les allégations selon lesquelles M. Murray aurait subi des blessures ont fait l'objet de plusieurs enquêtes. On reconnaît qu'il a subi plusieurs blessures mineures au cours de l'incident. Cependant, l'examen médical, les témoignages oculaires, l'enquête de l'administration régionale et l'enquête du coroner ne parviennent pas à confirmer qu'il a été battu par le personnel, comme il le prétend.

Il est vrai qu'on n'a pas communiqué au directeur en temps opportun toutes les informations sur une prise d'otages, survenue 12 ans plus tôt, et à laquelle avait participé l'un des détenus en cause. Même si sont maintenant connues les raisons de cet état de choses, il reste qu'il importe de mettre au point une approche plus disciplinée en matière de cueillette d'informations afin de venir en aide aux directeurs dans de telles situations.

Il est vrai qu'on a mis un terme à l'étude de 1992 sur l'intégration des détenus en isolement protecteur. À cause de moyens restreints, il a été décidé de mener à la place une étude sur la maîtrise des agresseurs violents. À la fin des années 1980, le Service a décidé de retirer de l'isolement ces cas de protection qui se trouvaient pénalisés du fait qu'ils étaient enfermés dans leur cellule et qu'ils se voyaient refuser l'accès aux programmes. Dans l'ensemble, cette mesure a donné de bons résultats.

Pour ce qui est de l'utilisation du matériel audiovisuel, le Service a conclu un protocole d'entente avec la GRC pour tous les établissements du pays. L'utilisation de ce matériel dépend des circonstances. Cependant, ce sont des moyens dont le Service dispose.

Le Service admet que la publication des normes et des lignes directrices en matière de sécurité préventive présentait des problèmes importants, cependant, ceux-ci ont maintenant été corrigés.

La participation de M. Harradance ne constituait pas un conflit d'intérêts étant donné qu'il n'était pas le négociateur du Service ou des détenus. Il a plutôt été appelé sur les lieux pour venir en aide aux détenus et pour fournir des conseils juridiques.

En décembre 1995, le bureau du Sous-commissaire principal a proposé des changements à la DC et les a transmis à la région de l'Ontario qui doit rendre compte au Comité de direction en 1996.

Comme on le voit dans le procès-verbal de la rencontre qui a eu lieu avec l'EC en octobre 1995, les préoccupations de l'EC à ce sujet n'ont plus trait à la politique mais bien au processus d'examen des décisions pour chaque cas. Le SCC n'a reçu que deux demandes de révision cette année.

Le SCC est d'avis que la politique est nette, qu'elle est mise en oeuvre comme il se doit par les directeurs, et il considère cette affaire classée.

11. PÉNITENCIER DE LA SASKATCHEWAN, PRISE D'OTAGES, 1991

Question

Cet incident, qui s'est produit le 25 mars 1991, a entraîné la mort de deux détenus. C'est une question qui a fait l'objet de longues discussions et d'un échange de lettres suivi entre l'EC et le Service. De nombreuses préoccupations ont été soulevées : la décision de faire de la drogue un élément de négociation; la publication retardée des normes et des lignes directrices en matière de sécurité préventive; l'accessibilité aux dispositifs de surveillance audiovisuelle; la politique d'intégration des détenus en isolement protecteur à la population carcérale générale; l'accès aux renseignements concernant l'un des auteurs de la prise d'otages; et l'enquête du Service sur les blessures qu'a subies le preneur d'otages qui a survécu.

Réponse

Après un nouvel examen de toute la correspondance, le Service a fait les observations suivantes :

Il admet que des drogues ont été dispensées sous supervision médicale au cours de la prise d'otages. Cela a été fait afin d'atténuer l'émotivité élevée du milieu que le directeur n'arrivait plus à contrôler, et afin de préserver les vies qui étaient menacées à ce moment-là. Étant donné qu'il ne s'agissait que de drogues de type sédatif et qu'on s'en est servi d'une façon limitée, cela ne contrevenait pas à la politique antidrogue du gouvernement, distinction qui n'apparaît pas toutefois dans la politique actuelle du Service. Étant donné ce fait et l'expérience récente qu'on a vécue dans les prises d'otages, il est évident que le Service doit repenser l'utilisation des drogues en vue de calmer les situations de prise d'otages.

Dans son Rapport annuel de 1994-1995, l'EC admettait que le Commissaire avait pris cette question au sérieux et que la politique avait été clarifiée d'une façon satisfaisante. Cependant, l'EC critiquait la façon dont les décisions étaient soumises à l'approbation du Commissaire, mentionnant que les résultats de ces examens étaient généralement très lents à venir et témoignaient d'une attitude défensive et circonspecte.

Réponse

En 1994, le Commissaire s'est dit préoccupé par cette situation et a pris des mesures pour préciser la politique du Service dans ce domaine en donnant aux directeurs d'établissement des lignes directrices sur l'octroi des permissions de sortir avec surveillance pour des raisons humaines. Selon l'EC, ces lignes directrices étaient claires et correspondaient dans une mesure raisonnable à la politique du Service.

En réponse au Rapport annuel de 1994-1995, où l'EC formulait des préoccupations au sujet du processus d'examen des décisions au niveau du Commissaire (sept au total depuis avril 1993), le Service a entrepris de réviser ces cas.

Suivi

Le Service a révisé les sept cas. Des sept, trois montraient que la décision du directeur était conforme à la politique, qui était antérieure aux lignes directrices. Dans un cas, le Service s'est dit d'accord avec l'analyse qu'en faisait l'EC et a rappelé au directeur l'intention de la politique et a ordonné une visite au cimetière. Dans deux autres cas, l'examen a conclu que la décision du directeur était conforme aux nouvelles lignes directrices. Un cas n'a pas été révisé étant donné qu'on a jugé qu'il remontait à trop loin.

Pour ce qui est de la politique, la question de savoir si l'on peut limiter le nombre d'occasions pour lesquelles sont accordées des permissions de sortir avec surveillance pour des raisons humaines a été soulevée au milieu de 1995 par les gestionnaires régionaux supérieurs. Le changement qu'on propose d'apporter à la DC 790 (*article 29*) aurait pour effet d'en limiter l'octroi au détenu soit pour assister aux obsèques d'un membre de sa famille ou d'un ami proche, soit pour rendre visite à cette personne lorsqu'on a constaté quelle était en phase terminale. À l'heure actuelle, le libellé de la DC permet aux détenus admissibles de demander les deux types de permission de sortir pour des raisons humaines, et le responsable de l'établissement doit les approuver à moins qu'il y ait des difficultés au niveau de la sécurité ou de la gestion des cas.

Réponse

Le Service compte modifier la politique de rémunération de façon que les détenus qui sont sans emploi pour des raisons indépendantes de leur volonté reçoivent une indemnité quotidienne de 2,65 \$ (alors qu'elle est actuellement de 1,60 \$).

Suivi

Étant donné que la LSCMLSC exige que le Conseil du Trésor approuve le rajustement des taux de rémunération, le SCC prépare actuellement une présentation qui sera soumise à l'approbation du ministre. On s'attend à ce que cette proposition soit soumise au ministre d'ici la mi-avril 1996. Comme l'a dit le Sous-commissaire principal lors de la rencontre avec l'EC en décembre 1995, le Service n'envisage pas d'établir une indemnité minimale pour les détenus, sans distinction. Un représentant du bureau de l'EC discutera de cette question directement avec le ministre.

10. CRITÈRES RÉGISSANT LES PERMISSIONS DE SORTIR AVEC SURVEILLANCE POUR DES RAISONS HUMAINES

Question

Cette question a été soulevée pour la première fois en 1988 lorsqu'un certain nombre de détenus se sont plaints du fait qu'on leur avait refusé une permission de sortir pour assister aux obsèques de membres de la famille. Le Rapport annuel de 1988-1989 concluait à ce sujet que cette pratique ne pouvait être raisonnablement justifiée étant donné que les refus étaient essentiellement motivés par les coûts.

Dans son Rapport annuel de 1990-1991, l'EC admettait que le Service avait modifié sa politique en cessant de considérer les dépenses comme un facteur de décision dans les critères régissant les permissions de sortir avec surveillance pour des raisons humaines, mais il soulignait qu'il était essentiel que le Service prenne des mesures pour s'assurer que cette politique est comprise et mise en oeuvre dans les établissements. Dans son Rapport annuel de 1993-1994, l'EC disait qu'il continuait à recevoir des plaintes de détenus à qui l'on avait refusé une permission de sortir pour des raisons non conformes à la politique. Ces préoccupations ont été réitérées dans le Rapport de 1993-1994, et l'EC recommandait à ce moment-là que la politique soit clarifiée et incorporée dans le *Guide des droits et privilèges du délinquant*.

détenus avaient répondu à bon nombre de préoccupations qui avaient été soulevées à l'origine. L'EC espérait en conclusion qu'une décision finale, assurant à la fois un accès raisonnable et une pratique cohérente, serait prise dans un proche avenir.

Réponse

Le Service a entrepris une étude sur l'utilisation des ordinateurs personnels et compte se doter d'une politique appropriée en ce sens.

Suivi

Étant donné l'expansion rapide de la technologie informatique et l'abus que pourraient en faire les détenus, le Service a réexaminé au grand complet sa pratique permettant aux détenus d'avoir des ordinateurs dans leur cellule. Même s'il a été déterminé qu'il y avait là des avantages importants pour la réinsertion, on a décidé qu'il fallait tout de même mettre en place certains contrôles pour réduire les risques d'abus, les menaces aux réseaux du SCC (et d'autres systèmes aussi) et les coûts. Une nouvelle politique a donc été approuvée autorisant l'utilisation de certains types d'ordinateurs qui ont été scellés afin de prévenir les abus. En outre, il incombe aux détenus d'absorber les coûts des modifications, des réparations et des achats. Le moratoire prendra fin le 1^{er} mai 1996.

9. APPLICATION DE LA POLITIQUE DE RÉMUNÉRATION DES DÉTENUS AUX DÉTENUS SANS EMPLOI

Question

Depuis 1991 est étudiée la question de la rémunération raisonnable des détenus incapables de travailler pour des raisons indépendantes de leur volonté. Dans son Rapport de 1994-1995, l'EC disait que le Service n'avait rien fait pour mettre en oeuvre la recommandation demandant que soit établie une indemnité quotidienne minimale suffisante pour tous les détenus, sans distinction. L'EC rappelait également au Service l'engagement qu'il avait pris d'étudier le cas des détenus qui sont sans emploi pour des raisons indépendantes de leur volonté, et ce, en vue d'augmenter leur allocation quotidienne.

Réponse

Les transfèrements sont l'un des premiers indicateurs de rendement qu'on veut établir d'ici la fin juin 1996. Le personnel des deux organismes s'est entendu pour que le contrôle des transfèrements, en ce qui concerne le respect de la politique et des procédures, ce qui comprend tous les aspects comme les délais, le processus décisionnel et le processus d'appel, constitue une responsabilité régionale. Le Sous-commissaire principal a ordonné à chaque région d'établir un mécanisme d'ici le 1^{er} avril 1996 pour s'assurer que ce contrôle se fait régulièrement.

Suivi

L'Échelle de classement par niveau de sécurité a été réévaluée et, quelques modifications mineures ayant été apportées, a été validé comme instrument régissant les décisions de placement initial (février 1996). Les régions vont mettre au point des mécanismes qui leur permettront d'évaluer et de contrôler l'application de cet instrument.

Dans le cadre de cet examen, les régions examineront les rapports qu'il y a entre cet instrument et les décisions de placement initial. La première évaluation sera terminée d'ici au 31 octobre 1996, et un rapport national complet sera compilé par le secteur IMR d'ici au 31 décembre 1996.

Le secteur RDC s'emploie à mettre au point un outil qui lui permettra d'évaluer objectivement et de façon uniforme le classement des détenus selon le niveau de sécurité tout au long de la période d'incarcération. Cela facilitera le reclassement des détenus selon les facteurs de risque, lesquels peuvent changer. On s'attend à ce que ce nouvel outil soit pleinement opérationnel d'ici avril 1997. Une fois qu'il sera mis en oeuvre, le secteur IMR examinera l'effet du processus de reclassement sur les décisions de placement, dont les transfèrements.

8. EFFETS PERSONNELS (ORDINATEURS)

Question

Dans son Rapport annuel de 1994-1995, l'EC indiquait qu'il subsistait des écarts dans l'application de la politique quant à l'utilisation des ordinateurs, et ce, même si la politique et les lignes directrices révisées sur les effets personnels des

niveaux de risque. On procède à une analyse corrélatrice pour examiner le rapport entre le nombre et la variété des permissions de sortir qui sont accordées, les mises en liberté discrétionnaires et les résultats après la libération. L'étude devrait être achevée d'ici la fin avril 1996.

En outre, on procède à une étude des libérations intérieures dans le cadre de la révision de la LSCMLSC, qui portera sur les effets des programmes des permissions de sortir avec surveillance et sans surveillance sur les décisions d'accorder une semi-liberté et une libération conditionnelle totale.

7. TRANSFÈREMENTS

Question

L'EC a relevé, entre autres problèmes, les retards dans le traitement des demandes de transfèrement et dans le processus décisionnel ainsi que les écarts importants qu'il y a entre le classement des détenus et les placements. Entre autres améliorations, il réclamait l'établissement d'efficaces mécanismes de contrôle de la qualité afin de s'assurer que sont respectés les délais et les procédures, et l'adoption de moyens efficaces permettant d'étudier objectivement les appels et d'obtenir des rapports intérieures.

Le Rapport annuel de 1994-1995 concluait que le Service, s'il voulait remédier aux préoccupations liées au processus de transfèrement, devait dire clairement ce qu'il comptait faire, comment il comptait le faire et qui serait responsable de la mise en oeuvre des mesures voulues.

L'EC cite également le Vérificateur général qui avait dit dans son dernier rapport que le Service devait :

- réviser dès que possible l'Échelle de classement par niveau de sécurité, en se servant des données les plus récentes, afin d'en assurer la validité continue;
- envisager d'ajouter d'autres facteurs à l'Échelle afin d'obtenir une meilleure cohérence entre le système de classement des détenus selon le niveau de sécurité et les dispositions relatives à la procédure d'examen expéditif;
- envisager de faire le reclassement des détenus plus d'une fois l'an et insister davantage pour que le reclassement selon le niveau de sécurité coïncide mieux avec d'autres mesures décisionnelles faisant appel à l'évaluation du risque comme le transfèrement et la libération conditionnelle.

6. PROGRAMME DE PERMISSIONS DE SORTIR

Question

L'EC a exprimé des préoccupations pour la première fois concernant le Programme de permissions de sortir dans son Rapport annuel de 1990-1991, où il demandait que chaque établissement fasse une analyse complète du problème afin de déterminer la cause de la baisse dans l'utilisation de ce programme. Dans son Rapport annuel de 1994-1995, l'EC a réitéré que le Service n'avait rien fait pour déterminer les raisons de cette baisse. En outre, il affirmait que le Service n'avait aucune base de données fiables lui permettant de mesurer son rendement dans ce domaine. Le rapport faisait état de réserves quant à la détermination du SCC d'entreprendre cette évaluation, et s'interrogeait sur sa signification, son objet et sa méthodologie.

Réponse

Le Service a reconnu la nécessité d'établir une base de données fiables pour ce programme. Il était également d'accord pour dire que l'EC soulevait à ce sujet des préoccupations légitimes dont il serait tenu compte dans l'évaluation du programme qui devait être faite dans le cadre du plan de recherche de 1995-1996.

Suivi

Pour ce qui est de la nécessité d'établir une base de données fiables, un programme d'extraction des données a été mis au point afin de réunir des informations de base sur le Programme des permissions de sortir. En outre, depuis mai 1995, le SICS contient un modèle statistique propre au Programme des permissions de sortir. Dans sa lettre de novembre 1995, le commissaire adjoint, Imputabilité et Mesure de rendement, offrait au personnel du Bureau de l'Enquêteur correctionnel la possibilité d'obtenir la formation qui lui permettrait d'extraire ces données et les autres informations que contient le SICS, une fois que l'EC serait relié au système.

L'évaluation du Programme des permissions de sortir est en cours. Les évaluateurs se pencheront sur le rapport qu'il y a entre les permissions de sortir et l'octroi de la mise en liberté discrétionnaire, ainsi que sur les résultats après la libération. On a établi le nombre des permissions de sortir pour 1993-1994 (environ 34 000 permissions de sortir pour 7 000 détenus). L'analyse est en cours, et l'on se penche sur les motifs et les types de permissions de sortir selon les régions, les groupes ethniques, les grandes catégories d'infractions et les

À l'appui de ces mesures, mentionnons la planification de cellules nouvelles ou rénovées, exception faite des cellules pour détenus ayant des besoins spéciaux, essentiellement selon le principe du partage des cellules (p. ex., les cellules qui sont conçues pour accueillir deux détenus) et des transferts interrégionaux qui permettent de remédier à des déséquilibres temporaires causés par la surutilisation régionale de cellules conçues pour la double occupation.

Cependant, aucune de ces mesures ne permettra d'éliminer la double occupation des cellules. La double occupation des cellules continuera de faire partie de la stratégie de logement du Service.

Suivi

Double occupation des cellules conçues pour une seule personne jusqu'à 23 heures sur 24

La question de la double occupation des cellules dans les aires d'isolement et de l'absence de mécanisme de contrôle a fait l'objet d'une note de service en date du 11 décembre 1995 du Commissaire adjoint, Imputabilité et Mesure du rendement. Ce dernier demande aux établissements : « ... de réduire le plus possible la double occupation des cellules dans les aires d'isolement (ainsi que dans les aires réservées au traitement psychiatrique et médical) ».

Contrôle du recours à la double occupation des cellules

Chaque établissement doit remplir un rapport sur la double occupation des cellules dans les aires d'isolement le 15 de chaque mois. Ce contrôle mensuel, commencé en janvier 1996, a d'abord été prévu pour six mois. L'EC a reçu les premiers résultats de cette étude et recevra les rapports mensuels qui suivront. Les statistiques sur la population carcérale normale en cellule à occupation double (par établissement) sont versées au Système d'information pour cadres supérieurs du SCC, système auquel le Bureau de l'EC a accès. Le secteur de l'imputabilité et de la Mesure du rendement s'emploie également à établir un mécanisme de contrôle relativement à la double occupation des cellules pour détenus ayant des besoins spéciaux (par établissement) ainsi que pour les cellules partagées. Un examen préliminaire a permis de constater qu'un projet de recherche sur l'effet de la double occupation des cellules dans les aires d'isolement n'était pas faisable pour le moment, et c'est pourquoi il n'a pas été approuvé dans le cadre de notre plan de recherche.

Croissance et profil de la population carcérale

Au cours des quatre dernières années financières (de 1991-1992 jusqu'à 1994-1995), le Service a connu une augmentation sans précédent de la population carcérale. Par rapport au taux de croissance à long terme (sur 30 ans) qui était de 2,5 % à 3 % par année, la population carcérale a connu une croissance moyenne de plus de 5 % au cours de ces quatre années, quoiqu'il y ait eu réduction au cours de la dernière année.

À l'inverse, il y a eu diminution d'environ 5,5 % du nombre de délinquants sous supervision communautaire en 1994-1995, particulièrement chez les délinquants en liberté conditionnelle totale. Cette réduction est attribuable à divers facteurs, dont l'augmentation continue du nombre de détenus incarcérés pour des crimes violents (actuellement, 77 % de la population carcérale purge des peines pour des crimes violents).

Pour remédier à la croissance de la population carcérale, le Service a pris en février 1995 des mesures de planification touchant la gestion de la population carcérale. Entre autres mesures, la surutilisation, pouvant aller jusqu'à 25 % de la capacité des établissements sur une base régionale, des cellules conçues pour une seule personne.

Le Service a approuvé une stratégie de logement et de gestion de la population carcérale qui vise à donner aux régions les moyens qu'il leur faut pour réduire le plus possible la double occupation des cellules lorsqu'il y a des besoins spéciaux : pour l'observation des détenus présentant un risque de suicide; pour les soins de santé; pour les cellules dans les centres de traitement psychiatrique et les unités pour détenus souffrant de problèmes mentaux, et qui sont réservées à cette fin; les unités spéciales de détention; les cellules dépourvues de lumière naturelle; les cellules de 5,5 m² ou moins, et les cellules pour les détenus handicapés. La stratégie, qui a été approuvée par le Conseil du Trésor, donnera au SCC les ressources qu'il lui faut pour se doter des installations voulues au cours des trois prochaines années, ce qui permettrait normalement d'éviter la double occupation de ces cellules.

Ces mesures de planification ont permis jusqu'à ce jour d'éliminer la double occupation dans toutes les cellules du pénitencier de Kingston de moins de 5 m², et d'éliminer la double occupation des cellules ordinaires et d'accueil de 5 m² ou moins.

de ces informations pour déterminer les sujets des réunions, ateliers ou programmes de formation, et les régions continuent de suivre la gestion des cas en se servant de méthodes d'échantillonnage semblables.

Le Service est à mettre au point des indicateurs de gestion qui lui permettront d'évaluer l'efficacité d'un certain nombre d'éléments au sein du processus de gestion des cas. On s'emploie actuellement à établir des indicateurs utiles pour l'isolement, les transfèrements, les décisions relatives à la mise en liberté, les plans correctionnels, la gestion communautaire des cas, les griefs, la classification sécuritaire des détenus et les analyses d'urine. C'est un processus complexe qui nécessite des consultations exhaustives, et une approche systématique et prioritaire a été adoptée. On s'attend à ce que les premiers indicateurs de gestion soient mis en place d'ici la fin juin 1996; d'autres s'y ajouteront à mesure que le programme prendra forme. Ces indicateurs de gestion constitueront des éléments de responsabilité de base pour les chefs d'unités opérationnelles.

5. DOUBLE OCCUPATION DES CELLULES

Question

Cette question remonte à 1984, lorsque l'EC a souligné pour la première fois l'effet néfaste de la double occupation des cellules sur les détenus ainsi que sur les opérations des établissements. L'EC a conclu son Rapport annuel de 1994-1995 en disant que la pratique de la double occupation des cellules était inhumaine et que le Service n'y prêtait aucune attention.

Réponse

Les effets sur la population carcérale, et les mesures relatives au logement qui en résultent, sont multidimensionnels. Étant donné la nécessité continue d'une gestion financière rigoureuse, la croissance de la population carcérale fédérale et les effets anticipés des nouvelles lois, la double occupation des cellules (c.-à-d. l'occupation par deux détenus d'une cellule conçue pour un seul) demeurera une pratique normale du SCC, comme le veut la DC 550 sur le Logement des détenus. Même s'il y a diminution de la population carcérale, le Service continuera d'être financé selon la politique permanente de double occupation des cellules.

Réponse

Le Service a répondu au Rapport annuel de 1994-1995 en faisant valoir les progrès qui avaient été accomplis au cours des dernières années et en soulignant le fait que des recherches avaient été faites. Ce sont ces recherches qui ont permis d'améliorer le ciblage des programmes vers les détenus qui en ont le plus grand besoin, selon leur comportement criminel.

Le processus général d'évaluation initiale des détenus, le plan correctionnel révisé, la création de la base de données du SGD et les communications améliorées avec la CNLC ont été cités à titre d'exemples d'améliorations générales. En outre, le Service a indiqué qu'il contrôlait le nombre de détenus incarcérés au-delà de la date d'admissibilité et qu'il rendait compte des résultats de cette analyse d'ici la fin d'octobre 1995. Enfin, le Service a fait évaluer la qualité de deux cas de gestion où, entre autres facteurs, l'on devait déterminer si le travail avait été achevé avant l'audience de la CNLC.

Suivi

Au cours des rencontres avec l'EC en octobre et en décembre 1995, le Service a présenté un aperçu du *Rapport sur l'admissibilité à la libération conditionnelle* et les points saillants de ses constatations. Une séance d'information a par la suite été donnée à l'EC le 18 janvier 1996.

La stratégie de mise en oeuvre du Rapport sur l'admissibilité à la libération conditionnelle a été approuvée par le Comité de direction du 19 décembre 1995. Un plan d'action en trois volets a été conçu afin d'examiner : l'utilisation potentielle de la révision anticipée et obligatoire des cas, l'adoption d'une politique en vue de limiter le recours aux conditions supplémentaires et le rôle des gestionnaires de cas communautaires dans la préparation de cas.

Il convient également de souligner que les détenus qui n'ont pas été soumis à l'évaluation initiale des délinquants devront faire l'objet d'une évaluation des risques et des besoins d'ici le 30 juin 1996. Le Service aura alors accès aux informations relatives aux risques et aux besoins pour tous les détenus ayant accès aux programmes.

De juin à décembre 1995, le Service s'est penché sur des cas pris dans le SGD dans chaque région afin d'évaluer la qualité et le caractère opportun de divers éléments du processus de gestion des cas. Cette étude visait à faire connaître à chaque sous-commissaire régional les secteurs qui nécessitent le plus d'attention si l'on veut améliorer la gestion des cas. Les régions se sont servies

4. PRÉPARATION DES CAS ET ACCÈS AUX PROGRAMMES

Question

Cette question, qui a été soulevée pour la première fois dans le Rapport annuel de 1988-1989, a trait aux retards constatés dans la préparation des évaluations et l'application des traitements voulus avant les dates d'audience de libération conditionnelle. À l'origine, cette préoccupation portait précisément sur les programmes de santé mentale.

Selon l'EC, ce problème a contribué à la croissance de la population carcérale. Il affirme en outre que la situation actuelle va perdurer tant et aussi longtemps que ne sera pas efficace le système d'information permettant de déterminer si les programmes sont offerts au moment opportun. Il cite, entre autres exemples, le manque de données sur la prestation des programmes aux délinquants sexuels, les renonciations, les reports et les taux de concordance entre le Service et la CNLC.

Même si l'EC reconnaît qu'il s'agit là d'un problème complexe, et même si le SCC a accompli des progrès au cours des dernières années dans la mesure où il a élargi ses programmes, il affirme que des éléments importants de la solution résident dans l'amélioration de la base d'information et dans la prestation des programmes en temps opportun. C'est là un thème qui revient dans les rapports annuels, particulièrement en ce qui concerne le Système de gestion des détenus, le Système de dépistage des délinquants sexuels et le recours aux renonciations et aux reports.

C'est une question qui a évolué, c'est-à-dire qu'elle est partie de la préoccupation quant à l'absence de programmes, et qu'elle a trait maintenant à la prestation en temps opportun des programmes. Le SCC ayant élargi ses programmes pour répondre à une demande croissante, l'attention de l'EC s'est portée sur le besoin d'une intervention plus opportune, et il est d'avis que le fait que les détenus doivent rester dans les établissements pour recevoir le traitement voulu ne fait que retarder les mises en liberté. Selon l'EC, le Service hésite à déplacer la prestation des programmes des établissements vers les milieux communautaires, ce qu'il a qualifié de cycle « d'enchaînement des effets ».

Dans son Rapport annuel de 1994-1995, l'EC a demandé qu'on lui explique clairement la nature et les causes des problèmes liés aux retards. Encore là, on ne saisira pas clairement toute l'étendue du problème tant et aussi longtemps qu'on ne disposera pas d'une base de données solide.

c) La lenteur excessive qu'on met à répondre aux griefs, particulièrement au niveau du Commissaire.

On a entrepris, en janvier 1996, l'analyse statistique mensuelle du temps qu'il faut pour répondre aux griefs du troisième palier, ce qui permettra de suivre de près l'évolution des délais de réponse et de repérer les secteurs pouvant être améliorés.

On a complété en janvier 1996 les mesures de dotation en vue de recruter du nouveau personnel permanent. Deux analystes de plus ont pris leurs fonctions. En outre, un poste d'analyste supérieur a été approuvé. On s'attend à ce que la mesure de dotation soit achevée d'ici mai 1996. Un personnel permanent élargi devrait nous permettre de répondre efficacement aux griefs du troisième palier au cours de l'année à venir.

Ces initiatives récentes (janvier et février 1996) nous ont permis de réduire d'environ 45 jours le délai de réponse aux griefs du troisième palier. En outre, en janvier, il y avait 284 cas en suspens, qui ont été portés à 195 en février, et depuis février, ce nombre a été réduit à moins de 125.

En outre, on a réduit à 10 jours ouvrables, là où c'est possible, le délai de réponse aux lettres adressées par le Bureau de l'Enquêteur correctionnel au Commissaire ou au Sous-commissaire principal.

d) Le fait que de l'information n'est pas fournie à l'EC au sujet des efforts que fait le SCC pour favoriser le règlement à l'amiable des conflits.

Avec l'encouragement de la direction des établissements, on a mené à bien les projets pilotes des établissements de Warkworth et d'Edmonton, ce qui a permis de réduire de beaucoup le nombre de griefs aux deux endroits. Du 1^{er} avril 1994 au 31 mars 1995, il y avait 64 griefs du troisième palier à Warkworth et 28 à Edmonton. Par contre, du 1^{er} avril 1995 au 7 mars 1996, le nombre de griefs au troisième palier aux deux endroits était de 33 et de 15 respectivement.

Le Comité de direction a approuvé cette initiative et encourage les autres établissements à entreprendre des projets semblables. Le nouveau poste de gestionnaire de l'initiative de règlement des différends permettra de mettre en oeuvre divers projets, diverses politiques et initiatives de formation visant à favoriser le règlement à l'amiable des problèmes. Le Service tiendra l'EC au courant de cette initiative.

a) La gestion efficace du système au niveau national, ce qui comprendrait l'établissement d'une base d'information.

La conversion de toutes les données relatives aux griefs des détenus, passant de l'ancien système au Système de gestion des détenus, est terminée. Toutes les données liées aux griefs, ce qui comprend l'objet de la plainte et les résultats de l'enquête, sont maintenant notées à tous les paliers de la procédure de grief. En outre, le SCC a mis en oeuvre un système autonome (le DOMUS) dont peuvent se servir les analystes et les gestionnaires des griefs de l'administration centrale. Ce mécanisme permet de contrôler immédiatement les délais de réponse qu'on trouve dans la charge de travail de chaque analyste et d'assurer l'efficacité générale au troisième palier.

Avec la mise en oeuvre complète des deux systèmes électroniques, la Division des affaires des détenus est maintenant en mesure d'analyser les tendances des griefs partout au pays et pourra, dans les prochains mois, donner aux gestionnaires du Service les données qu'ils aideront à reconnaître les faiblesses qui réclament leur attention. Le premier rapport à l'intention des gestionnaires sera achevé d'ici le 1^{er} juillet 1996.

b) Le fait que la direction semble peu croire dans ce système.

Un certain nombre de modifications ont été apportées au niveau de l'organisation et des méthodes, ce qui permettra à la direction d'accorder l'attention voulue au système des griefs, entre autres :

- le placement de la Division des affaires des détenus sous l'autorité directe du Sous-commissaire principal en septembre 1995;

- la tenue de rencontres régulières entre les fonctionnaires supérieurs du SCC et le Bureau de l'Enquêteur correctionnel afin de favoriser le dialogue et le règlement des problèmes et des préoccupations à caractère général;

- l'établissement de deux fonctions de liaison directe entre des fonctionnaires identifiés du Bureau de l'EC et le personnel des Affaires des détenus : l'une qui s'occupera des cas propres aux détenus, et l'autre qui aura trait aux préoccupations relatives au système de grief des détenus;

- l'accès accordé à l'EC au Système d'information pour les cadres supérieurs du SCC.

comprendrait l'établissement d'une base d'information, le fait que la haute direction ne semble pas croire en ce système; la lenteur excessive qu'on met à répondre aux griefs, particulièrement au niveau du Commissaire; l'absence d'information sur les efforts qui sont faits pour encourager les règlements à l'amiable; et l'absence d'un mécanisme permettant de contrôler l'exactitude et l'objectivité des examens de griefs. Enfin, l'EC a demandé que soit effectuée une vérification nationale approfondie de la gestion du système.

Réponse

Le Service reconnaît que la procédure de règlement des griefs préoccupe les deux parties et s'engage à collaborer avec l'EC pour apporter des améliorations. Le SCC n'est pas d'accord pour le moment avec l'EC, qui a réclamé dans son rapport annuel une vérification nationale de la procédure de règlement des griefs, étant donné qu'une telle vérification n'est pas susceptible de révéler des informations nouvelles quant aux problèmes que l'on a identifiés à l'intérieur du système. Comme l'EC le dit, il n'y aura pas de vérification efficace du système sans l'établissement et la mise en œuvre d'une base d'information.

Le SCC reconnaît que la procédure de règlement des griefs au troisième palier pose de sérieuses difficultés, particulièrement au niveau du temps qu'il faut pour répondre, de l'analyse des tendances et de l'organisation de la Division des affaires des détenus. Cependant, le Service est d'avis que ses enquêtes et ses réactions aux griefs répondent à des critères de qualité élevés.

Le Service reconnaît qu'il doit améliorer la capacité qu'il a de résoudre les problèmes au niveau local, avant même que les griefs officiels soient déposés. De même, lorsqu'un grief est déposé, le Service doit agir plus rapidement pour régler le problème. Cela s'applique à tous les niveaux du processus.

On ne réagit pas aux griefs selon le principe du «premier arrivé, premier servi». Au contraire, certains griefs reçoivent la priorité, par exemple les transferts non sollicités et les permissions de sortir pour des raisons humaines. De manière générale, ce qui détermine la priorité du grief, c'est la mesure dans laquelle le problème soulève risque d'entraver le degré de liberté des détenus. C'est cela qui détermine si le grief recevra une attention immédiate.

Le Service va entreprendre une révision de la Directive du Commissaire sur les griefs des détenus afin de déterminer si les délais sont raisonnables et si l'on peut intégrer dans la politique la priorisation des griefs. Cette révision sera entreprise au cours de la première moitié de l'exercice financier 1996-1997, et des changements à la politique seront apportés au besoin.

encourage l'activité illécite). La seconde avait trait au fait qu'au moment de leur mise en liberté les délinquants doivent réintégrer la collectivité sans avoir les ressources financières suffisantes. En conclusion, l'EC réclamait, dans son rapport, un examen approfondi des répercussions de la rémunération des détenus dans ces deux domaines.

Réponse

Le Service reconnaît qu'il subsiste des problèmes relativement à la rémunération des détenus et qu'il faut modifier les politiques en conséquence. Il faut tenir compte de facteurs comme l'effet de la rémunération sur l'économie au sein des établissements. Conformément à la directive ministérielle, l'augmentation de la rémunération approuvée par le Conseil du Trésor n'a pas été mise en oeuvre en 1992-1993. Étant donné la situation financière du pays, le ministre a indiqué sa préférence pour une nouvelle rémunération directement liée au rendement des détenus, qui doivent se conformer aux conditions prévues dans leur plan correctionnel, et pour le maintien des niveaux de référence actuels de rémunération des détenus.

Pour ce qui est de l'examen de la rémunération des détenus et de ses effets sur les opérations des établissements et la mise en liberté sous condition, le Service a déjà dit qu'il n'entend pas prendre de nouvelles mesures.

Suivi

Le Service est à mettre la dernière main à une présentation à l'intention du Conseil du Trésor, qui doit être signée par le ministre, et qui devrait ajuster les taux de rémunération à l'intérieur du niveau de référence actuel (19,2 millions de dollars). On propose, dans la présentation, cinq niveaux de rémunération qui seraient davantage liés à la participation des détenus aux programmes et une hausse de l'indemnité quotidienne minimale des détenus qui sont sans travail pour des raisons indépendantes de leur volonté. La proposition ne doit rien coûter et ne prévoit pas d'augmentation générale de la rémunération.

3. PROCÉDURE DE RÉGLEMENT DES GRIEFS

Question

Il y a longtemps que l'EC exprime des préoccupations au sujet du mécanisme de redressement interne pour les détenus prévu par la Loi sur le système correctionnel et la mise en liberté sous condition. Ces préoccupations portent sur l'absence d'une gestion efficace du système au niveau national, ce qui

Comme le mentionne le rapport intérimaire sur les USD de décembre 1995, le CNR actuel transfère un plus grand nombre de délinquants des USD, refuse l'admission aux USD à un nombre croissant de détenus après une évaluation initiale, ce qui a pour effet de réduire la population des USD. Ces résultats confirment l'objectivité et l'équité du processus.

Suivi

À l'heure actuelle, les détenus ont la possibilité de faire valoir leurs opinions auprès du CNR et de faire valoir leurs opinions personnelles. Pour remédier aux préoccupations relatives à l'objectivité et à l'équité (dont faisait état la rencontre mixte SSC/EC du 6 décembre 1995), on a pensé inviter les détenus à assister aux audiences du CNR. Le président du CNR a précisé que tout détenu d'une USD peut, s'il en fait la demande, être interviewé par deux membres du Comité à la première séance du Comité qui fait suite à la demande du détenu. Les deux membres rendent compte ensuite au comité complet.

Le Service étudie sérieusement toute la question des observations présentées par les détenus au CNR et demandera un avis juridique à ce sujet, étant donné que cela peut avoir des effets sur les décisions concernant les transferts non sollicités.

2. RÉMUNÉRATION DES DÉTENUS

Question

L'EC souève la question de la rémunération des détenus depuis la publication de son rapport annuel de 1988-1989, et réclame depuis ce temps une augmentation générale du taux de rémunération en vue de remédier à la dégradation de la situation financière des détenus. Il a été recommandé de prendre des mesures immédiates afin que l'échelle de rémunération des détenus reflète raisonnablement le coût de la vie au sein des établissements. L'EC s'est aussi dit préoccupé des tensions dans les établissements, de l'endettement des détenus et des activités illicites auxquelles cette situation donnait lieu.

Dans son Rapport annuel de 1994-1995, l'EC disait qu'encore là, il n'y avait eu aucun examen approfondi de la rémunération des détenus, et il a soulevé de nouveau deux préoccupations liées à cette question. La première est l'effet sur les opérations des établissements (p. ex., une rémunération insuffisante

Suivi

Les programmes des USD de la région des Prairies ont été fortement améliorés au cours des deux dernières années; on y offre, entre autres, des programmes de développement des aptitudes cognitives, de maîtrise de la colère et de counseling en matière d'alcoolisme ou de toxicomanie.

Les mêmes tentatives dans la région du Québec n'ont pas connu autant de succès, comme l'indique le *Rapport sur les Unités spéciales de détention 1994-1995* (septembre 1995) qui vient d'être soumis, par exemple : l'incompatibilité des détenus en USD et les programmes de groupe, l'absence d'intérêt de la part des détenus, le boycott des programmes et du counseling offerts par l'établissement (de septembre 1994 à février 1995), ainsi que le manque d'espace pour la prestation des programmes.

La vérification interne des deux USD, qui doit avoir lieu du 22 avril au 3 mai 1996, se penchera sur la prestation des programmes et le rôle et le mandat du CNR relativement aux USD conformément aux critères d'objectivité et d'équité. Le projet de vérification a été soumis au Bureau de l'EC.

b) *Objectivité et équité du Comité national de révision (CNR)*

Réponse

La composition du Comité part du principe que les gestionnaires régionaux et locaux deviennent des participants actifs au niveau tant de l'administration de la politique que du contrôle des résultats pour les fins du Comité de direction. L'affectation d'un gestionnaire supérieur au Comité est perçue comme une approche pratique et légale, et permet aussi au directeur de participer directement au processus d'examen. Un jugement récent a confirmé la légalité de cette composition. Étant donné que le Comité national de révision des USD a prouvé qu'il était une entité logique et viable, le Service ne compte pas en modifier la composition.

^{*} (NOTE : L'ébauche et le texte final du Rapport annuel sur les USD de 1994-1995 ont été remis à l'EC, tout comme les rapports intermédiaires et trimestriels pour 1995-1996, qui ont été publiés en septembre et décembre 1995.)

RAPPORT INTÉRIMAIRE FAISANT SUITE
AU RAPPORT ANNUEL DE
L'ENQUÊTEUR CORRECTIONNEL 1994-1995

1. UNITÉS SPÉCIALES DE DÉTENTION

Question

Depuis 1989-1990, l'Enquêteur correctionnel s'interroge sur l'utilité des Unités spéciales de détention (relativement aux longs séjours en aire d'isolement) et suit de très près les opérations de telles unités. Le Comité national de révision a l'obligation, dans le cadre de son mandat, de contrôler et d'analyser l'efficacité des programmes et d'en rendre compte en temps opportun dans son rapport annuel sur les USD.

À l'heure actuelle, il y a deux questions dont fait état le rapport de l'EC relativement aux USD :

- a) la capacité des unités de fournir des occasions d'emploi et des programmes d'une manière raisonnable et en temps opportun afin de répondre aux besoins constatés dans la population carcérale; et
 - b) *L'objectivité et l'équité avec lesquelles le Comité national de révision (CNR) exerce ses fonctions à la fois comme instance décisionnelle dans des cas particuliers et comme organisme responsable du suivi et de l'analyse pour ce qui est du programme des unités spéciales de détention.*
- Emplois et programmes*

Réponse

Comme on l'a déjà dit à l'EC, les programmes visent à répondre aux besoins constatés des détenus en USD et à faciliter leur réinsertion en milieu carcéral à sécurité réduite.

Pour accorder à ces questions toute l'attention voulue, le Service doit commencer à s'occuper des questions particulières exposées dans les rapports annuels et renoncer à l'habitude qu'il a d'aborder les questions d'une manière trop générale, tout en les considérant isolément. J'espère qu'en mettant l'accent sur les problèmes particuliers, il sera plus facile, non seulement d'accorder l'attention voulue à ces préoccupations systémiques, mais aussi de répondre sans retard et de façon appropriée aux préoccupations individuelles des détenus (p. 59, Rapport annuel de 1994-1995).

Afin d'éviter une conclusion semblable cette année, nous espérons que l'engagement qu'a pris le Sous-commissaire principal de produire un rapport intermédiaire trimestriel, d'ici mars 1996, permettra au Service d'accorder l'attention voulue aux observations et aux recommandations que nous faisons dans le rapport annuel de l'an dernier (voir en annexe la note de service en date du 8 janvier 1996).

Dans un an, je réexaminerai la situation et, si le problème persiste, la DC sera modifiée.

Nous disions dans notre rapport annuel de l'an dernier que c'était un «pas dans la bonne direction» et que nous étions encouragés par le fait que le Commissaire avait promis de réexaminer la situation après un an afin de s'assurer que l'instruction était bel et bien respectée.

Dans son témoignage devant la Commission Arbour, à la mi-décembre 1995, le Commissaire a dit qu'il comptait réexaminer cette question à la prochaine réunion du Comité de direction. Étant donné qu'il ne semble pas en avoir été question dans le Résumé des décisions du 19 décembre 1995 (annexe E), nous pensons que la question figurait à l'ordre du jour de la réunion du Comité de direction de janvier 1995. Nous devrions recevoir bientôt une réponse du Service sur cette question.

Conclusion

Le rapport annuel de l'an dernier se terminait ainsi :

Les réponses données par le Service pendant l'année ne sont pas différentes de celles qu'il a données par le passé. Il a évité d'aborder l'essentiel des questions en jeu, en ne répondant pas, par exemple, aux observations et aux recommandations précises que contenait le rapport annuel de l'an dernier. Ces réponses témoignent d'une attitude défensive, ne montrent guère d'appréciation pour l'évolution ou l'importance des problèmes et s'inscrivent, dans le meilleur des cas, dans une série de nouvelles promesses d'action, sans dire quoi que ce soit quant aux résultats attendus des mesures proposées ou à la façon dont ces résultats seront mesurés ou analysés.

Le Bureau fait principalement porter son effort sur deux domaines :

- a) les retards et l'indifférence que le Service correctionnel du Canada continue de manifester dans ses réponses aux préoccupations de nature particulière ou générale dont est saisi notre Bureau;
 - b) le problème du surpeuplement :
- ses conséquences pour le détenu et pour la capacité du Service correctionnel du Canada de gérer d'une manière raisonnable et sans danger la population carcérale,
 - ses causes sur lesquelles on peut agir dans une large mesure en assurant, pour ce qui est de la population carcérale, une gestion raisonnable et respectueuse des délais.

Le problème ici ne réside pas dans la définition. Le problème réside dans le refus constant du Service d'admettre qu'il a contrevenu à la Loi depuis son adoption et qu'il a omis de prendre des mesures raisonnables pour s'assurer que sont faites les enquêtes aux termes de l'article 19.

Le 14 décembre 1995, le Sous-commissaire principal nous indiquait dans sa lettre que des instructions allaient être émises concernant la classification des blessures et qu'on allait s'assurer que sont fournis en temps opportun des rapports minutieux et exacts. Nous n'avons pas reçu copie de ces instructions. Souignons que l'examen des SINTREP d'avril, mai et juin 1995 révèle quatre incidents d'agression grave à l'endroit des détenus et que nous n'avons reçu aucun rapport d'enquête à ce sujet. Le Commissaire ou son délégué ont-ils reçu un rapport comme le veut l'article 19 de la Loi?

Au sujet des préoccupations qu'a le Bureau au sujet du processus d'enquête du Service, rappelons de manière générale que le rapport annuel concluait :

En ce qui concerne l'examen par le Service de son processus d'enquête, on m'a récemment fait savoir qu'un rapport définitif avait été présenté et que la plupart des 71 recommandations qui figuraient dans le rapport avaient été acceptées. J'examinerais avec plaisir les changements en matière de politiques et de procédures qui découlent de ces recommandations (p. 56, Rapport annuel de 1994-1995).

Nous n'avons toujours pas été informés du moindre changement à la politique ou aux pratiques découlant du rapport Fyffe de janvier 1995 (Examen de la procédure d'enquête du Service correctionnel du Canada).

17. Visites des aires d'isolement et délégation

Le Commissaire a donné, le 22 décembre 1994, une instruction sur cette question, dont voici un extrait :

Je compte que le directeur ou le sous-directeur visitera l'aire d'isolement au moins une fois la semaine, sauf s'ils ont de bonnes raisons d'agir autrement. Il faut faire une véritable visite, comportant au moins une inspection des lieux, l'examen des registres, une rencontre avec le personnel et avec les détenus qui en font la demande. Je demande aux sous-commissaires de vérifier le registre, comme je le fais, lorsque je me rends dans des établissements, afin de confirmer que c'est bien ainsi que les choses se passent. Cela n'annule pas l'obligation d'une visite quotidienne par un gestionnaire d'unité, conformément à la DC.

16. Blessures subies par les détenus

Il n'y a eu aucun progrès à ce sujet. Après la publication du rapport annuel de l'an dernier, l'Enquêteur correctionnel a écrit au Commissaire le 26 juillet 1995 :

On semble ne pas avoir compris.

Les enquêtes menées conformément à l'article 19 de la LSCMLC ne dépendent pas de la classification de l'incident, mais bien du fait que l'incident aurait provoqué « une blessure grave ». Les deux incidents qui ont été portés à votre attention en mars ont eu pour effet de causer des blessures graves aux détenus selon la définition qu'en donne l'Instruction provisoire du 20 juillet 1994. Ces incidents auraient dû déclencher une enquête conformément à l'article 19 de la Loi. Le Service ne s'est donc pas conformé à l'article 19 de la LSCMLC.

Le Sous-commissaire principal a répondu à ce sujet le 14 décembre 1995 : « Un examen exhaustif de la question révèle que le Service n'a toujours pas de définition définitive de l'expression 'blessure grave'. »
Voilà qui excuse bien mal le fait que le Service ne se conforme pas à la Loi.

Le Rapport annuel de 1992-1993 indiquait :

Le Service n'a toujours pas donné une définition ad hoc de ce qui constitue une « blessure grave », en dépit des nombreuses demandes qu'il a reçues à cet effet.

Le Rapport annuel de 1993-1994 précisait :

En ce qui concerne la question connexe des responsabilités du Service en vertu de l'article 19 de la Loi sur le système correctionnel et de la mise en liberté sous condition, la définition ad hoc de ce qui constitue une « blessure grave » reste à l'état d'ébauche.

Le Rapport annuel de 1994-1995 ajoutait :

L'Instruction provisoire du Service intitulée Rapports sur les blessures des délinquants, distribuée en juillet 1994, donnait une définition de 'blessure grave', mais notre bureau continue de rencontrer des cas où des blessures qui normalement devraient relever de cette définition n'ont pas fait l'objet d'une enquête aux termes de l'article 19.

- la direction ait la responsabilité d'examiner les comptes rendus et de faire en sorte que des mesures correctives soient prises;
 - une base de données soit tenue à jour dans les régions et à l'échelon national sur les cas de recours à la force, le genre de force utilisée, les circonstances, le nombre de blessures, etc. en vue d'un examen et d'une analyse visant à faire en sorte que de tels incidents soient le plus rares possible. (Combien y a-t-il d'incidents de ce genre au cours d'une année?) Je n'arrive pas à comprendre pourquoi le Service continue d'être peu disposé à faire en sorte que les cas de recours à la force fassent l'objet d'une enquête complète et objective (p. 54, Rapport annuel de 1994-1995).
- La position du Service à ce sujet n'est pas claire.

À la suite des incidents où l'on a eu recours à la force, le Service va-t-il s'assurer qu'est faite une enquête complète et objective comme le veut la Directive du Commissaire n° 605? La pratique actuelle que prévoit le Manuel de sécurité du Service est telle que l'examen du Rapport sur le recours à la force par le directeur constitue une enquête, et cela ne répond pas à l'intention de la politique dans ce domaine.

Où est la politique obligeant la direction à s'assurer que les enquêtes sur le recours à la force sont examinées et que des correctifs sont apportés au besoin? Où en sont les efforts actuels du Service visant à créer une base d'informations et un processus d'examen et d'analyse concernant les cas où il y a eu recours à la force? En août 1995 (annexe A), on nous a informés que le SCC allait prendre des mesures pour inclure des informations dans le Système d'information des cadres supérieurs. Cela faciliterait le contrôle et l'analyse des cas de recours à la force, au niveau des établissements et aux niveaux régional et national. En décembre 1995 (annexe F), nous avons appris que des changements allaient être apportés : 1) afin de réunir des données complètes sur l'utilisation de tous les types de recours à la force dont dispose le personnel du Service; 2) les administrations régionales seraient obligées de contrôler les recours à la force au sein de leur région et de préparer des analyses périodiques des données qui seraient soumises à l'administration centrale; et 3) l'administration centrale procéderait à des vérifications au hasard des incidents afin de s'assurer que les rapports sur le recours à la force sont opportuns, exacts et complets, et que des enquêtes de suivi sont faites au besoin. La question est de savoir quand?

donner une directive sur cette question pour que tous soient tenus d'appliquer cette politique (p. 49, Rapport annuel de 1994-1995).

À la réunion du 6 décembre 1995 avec le Sous-commissaire principal (annexe C), on nous a fait savoir que le Commissaire avait récemment donné ordre à tout le personnel du Service de s'identifier convenablement d'ici février 1996. Selon le Résumé des décisions de la réunion du Comité de direction de novembre 1995 (annexe D), cette note n'était qu'une lettre du Commissaire aux sous-commissaires les informant de cette exigence; ce n'était pas une note adressée à tout le personnel. Étant donné l'efficacité dont le Service a fait preuve jusqu'à maintenant en ce qui concerne le respect de cette politique, il n'est pas déraisonnable de s'interroger sur cette approche indirecte où l'on ne fait qu'informer le personnel de cette exigence.

14. Tribunaux disciplinaires

Le Rapport annuel de 1993-1994 recommandait :

Que le Service procède à une vérification de ses lignes de conduite et pratiques actuelles en matière de discipline, y compris en ce qui concerne l'isolement disciplinaire, afin de s'assurer qu'elles sont conformes à la Loi et au Règlement.

Le Rapport annuel de l'an dernier concluait à ce sujet :

Le fait est que, sur cette question, le Service n'a pas donné suite à la recommandation de l'an dernier (p. 51, Rapport annuel de 1994-1995).

À la réunion du 18 octobre 1995 avec le Sous-commissaire principal (annexe B), le commissaire adjoint, IMR, nous a informés que la vérification devrait être terminée en février 1996.

15. Recours à la force - Enquêtes et suivi

Le rapport annuel de l'an dernier disait à ce sujet : « Afin de pouvoir répondre d'une manière raisonnable aux préoccupations soulevées sur cette question, le Service doit veiller à ce que :

- tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et objective, qui tienne compte des observations des détenus concernés;

11. Prise d'otages - Pénitencier de la Saskatchewan

Le Sous-commissaire principal nous a informés qu'il avait attentivement examiné avec son personnel les préoccupations que soulevait cette question.

De même, nous sommes entendus à la rencontre du 6 décembre 1995 (annexe C) pour dire que le directeur exécutif et le Sous-commissaire principal discuteraient plus avant de cette question à la prochaine réunion. Nous en avons brièvement parlé lors de notre rencontre du 25 janvier 1996. À ce jour, il n'y a pas encore eu de discussion de fond à ce sujet.

Même si cet incident lui-même est désormais considéré comme de l'histoire ancienne, les préoccupations soulevées par la direction du Service concernant cet incident demeurent tout à fait d'actualité. À ce sujet, il faut lire la note de service du SSG à l'annexe G qui se termine ainsi : «Même si cette question est de moins en moins d'actualité, on pourrait s'y intéresser de nouveau cette année en raison de l'enquête qui se poursuit actuellement sur l'incident à la Prison des femmes».

12. Incapacité mentale

Le Rapport annuel de 1994-1995 concluait à ce sujet :

Il y a récemment eu échange de lettres entre le Bureau et le Service correctionnel du Canada afin de préciser les points sur lesquels portera la consultation, et nous comptons sur une approche coopérative pour le règlement de cette question difficile mais importante (p. 48, Rapport annuel de 1994-1995).

Le Service ne nous a rien dit de nouveau sur cette question depuis la publication du rapport annuel de l'an dernier. À la rencontre du 6 décembre 1995 avec le Sous-commissaire principal et son personnel annexe C), le commissaire adjoint, Recherche et Développement correctionnel, a accepté de donner le suivi voulu en organisant une rencontre entre le Service et le Bureau à ce sujet. Nous attendons toujours ce suivi.

13. Port de l'insigne d'identité

Le Rapport annuel de 1994-1995 concluait à ce sujet :

Il suffit de se rendre dans un certain nombre de pénitenciers fédéraux pour y voir que la politique sur le port de l'insigne d'identité n'est pas uniformément appliquée. Je recommande donc au Commissaire de

Le procès-verbal de la réunion du Comité de direction de décembre 1995 (annexe E) fait état de la rédaction d'un nouveau document de discussion qui sera étudié en janvier 1996, et mentionne qu'il « faudra consulter les détenus ». Le Bureau a été informé en décembre 1993 que la directive et les lignes directrices seraient retardées parce que le Service devait obtenir l'opinion des détenus sur les révisions proposées, conformément à l'article 74 de la Loi sur le système correctionnel et la mise en liberté sous condition.

Le Sous-commissaire principal nous a assuré que l'on communiquerait à l'Enquêteur toute décision future à ce sujet. Le processus se poursuit.

9. Application de la politique de rémunération des détenus sans emploi

On a traité à la Question n° 2 (Rémunération des détenus) de la recommandation du Rapport annuel concernant l'établissement d'une indemnité quotidienne minimale suffisante pour tous les détenus.

Au sujet des détenus qui ne travaillaient pas, le Rapport annuel dit expressément ceci : « Pour que le Service applique une politique de rémunération coordonnée et raisonnable, il doit examiner la question des détenus qui ne travaillaient pas en même temps que la question de la rémunération des détenus » (p. 40, Rapport annuel de 1994-1995).

Nous ne savons toujours pas si cette question est à l'étude.

10. Critères régissant les permissions de sortir avec surveillance pour des raisons humaines

Depuis deux ans, nous signalons dans notre rapport annuel que les lignes directrices du SCC sont « claires et correspondent dans une mesure raisonnable à la politique du Service ». Nous déplorons cependant que les résultats des examens faits par le Commissaire étaient « lents à venir et témoignaient d'une attitude défensive et circonspecte » (p. 41, Rapport annuel de 1994-1995). À la réunion du 18 octobre 1995, le Sous-commissaire principal nous a fait savoir que le Service envisage de modifier sa politique et que nous serions consultés en cours de route (annexe B). Il semble que nous avons eu tort de dire que les lignes directrices du Service étaient claires et correspondaient dans une mesure raisonnable à la politique du Service. Nous n'avons pas été consultés depuis octobre sur les changements possibles à la politique.

Comme l'indique le procès-verbal de la réunion du 6 décembre 1995 (annexe C), le retard que connaît encore la solution de ce problème est maintenant attribué à la révision de l'Échelle de classement par niveau de sécurité. Même si le rapport entre «l'échelle» et le processus de classification sécuritaire est évident, ce qui l'est beaucoup moins, c'est pourquoi il faut attendre, pour établir un système de gestion et de contrôle du processus de transfèrement, que soit modifiée l'Échelle de classement par niveau de sécurité.

Le Commissaire nous a informés en mars 1995 que :

Le SGD donne des informations permettant de suivre le processus de transfèrement des détenus, et notamment des informations sur des points comme le type de transfèrement (solicite/non sollicite), la date de la demande, le motif, la décision, la date du transfèrement et le résultat des appels interjetés. La question qui se pose alors est la suivante :
l'administration centrale dispose-t-elle de cette information, celle-ci est-elle mise en corrélation et analysée, et que révèle-t-elle? (p. 38, Rapport annuel de 1994-1995).

Le Rapport annuel concluait à ce sujet que le Service, s'il veut répondre aux préoccupations touchant le processus de transfèrement, doit dire clairement ce qu'il compte faire, comment il compte mettre en oeuvre ces mesures et qui sera responsable de leur mise en oeuvre. Rien de tout cela n'a été fait!

8. Gestion des effets personnels des détenus

Le Service n'a toujours pas émis de lignes directrices ni publié de directive sur la gestion des effets personnels des détenus. Cette inaction serait attribuable à l'absence d'une politique sur l'accès des détenus aux ordinateurs.

Comme le confirme le procès-verbal de la réunion du 6 décembre 1995 (annexe C), nous avons reçu la «documentation du Comité de direction» à ce sujet. Ces documents ont été étudiés par le Comité de direction du Service en décembre 1995 (annexe E). Nous devons avouer que nous ne comprenons pas très bien les préoccupations de sécurité liées à l'accès des détenus aux ordinateurs, et nous ne comprenons pas non plus pourquoi l'on étudie ces préoccupations depuis si longtemps sans arriver à la moindre conclusion.

À ce sujet, le Rapport annuel de l'an dernier concluait ainsi :

Il faut reconnaître que le Service ne possède pas de base de données fiables lui permettant de mesurer ses résultats actuels dans ce secteur. C'est pourquoi, avant d'entreprendre une «évaluation» du programme, le Service doit définir clairement ce que signifie l'évaluation, quelle méthode il faut employer et quel but poursuivre.

Même si nous ne sommes pas sûrs qu'on ait répondu à cette question, on nous a informé que le cadre d'évaluation avait été complété et que le rapport nous serait transmis en février 1996 (annexe B).

Il convient de souligner ici qu'une bonne part de l'autorité décisionnelle en cette matière est passée de la CNLC au SCC (annexe H). Le SCC en a-t-il informé les délinquants qui sont touchés par ce changement à la politique? Ce changement a-t-il eu un effet sur le programme?

7. Transfèvements

La note de service du SSG en date du 21 août 1995 (annexe G) dit à ce sujet : Parmi les problèmes relevés par l'Enquêteur correctionnel, on note les retards dans le traitement des demandes de transfèrement et dans le processus décisionnel ainsi que des contradictions flagrantes entre les classifications et les placements. Entre autres améliorations, l'Enquêteur correctionnel propose l'établissement de mécanismes de contrôle de la qualité afin d'assurer le respect des délais et des procédures, de moyens permettant d'examiner objectivement les appels qui sont interjetés et des rapports intermédiaires réguliers. Les réponses du SCC ne sont pas concluantes à ce sujet.

Il a été de nouveau souligné à la réunion du 18 octobre 1995 (annexe B) qu'on n'avait toujours pas remédié aux problèmes que sont le contrôle et la gestion du processus de transfèrement. On nous a répondu à ce moment-là que les chefs des secteurs avaient déterminé que la question des transfèvements devait faire l'objet d'une rencontre distincte.

À la réunion du 6 décembre 1995 (annexe C), il a été répété que la solution résidait dans l'établissement d'un système de contrôle et de gestion et que quelqu'un devait être responsable de ce système. On s'est entendu pour dire que cela constituait une responsabilité régionale, mais à ce jour, nous ne savons toujours pas si quelqu'un a été chargé de cette question.

L'extérieur des aires réservées à la population carcérale générale, qu'une étude avait été faite au cours de l'été 1995 et que les résultats en seraient communiqués à l'Enquêteur une fois que les dernières données y auront été ajoutées.

Le Résumé des décisions de la réunion du Comité de direction du Service des 21 et 22 novembre (annexe D) indique qu'une étude sur la double occupation des cellules sera menée au cours des prochains mois, et qu'une recherche sera faite pour déterminer les effets de la double occupation dans les aires d'isolement.

À la rencontre du 6 décembre 1995 (annexe C), le Commissaire adjoint, Imputabilité et Mesure du rendement, nous a appris qu'il existait un rapport mensuel sur la double occupation des cellules.

L'Enquêteur correctionnel n'a toujours par reçu copie de ce rapport mensuel. Nous n'avons jamais non plus reçu copie du rapport de l'étude qui a été faite au cours de l'été 1995 et qui avait été mentionnée à la rencontre du 18 octobre 1995. On ne nous a pas donné non plus de détails sur l'examen de la double occupation des cellules dans les aires d'isolement ou sur la recherche qui a été mentionnée dans le Résumé des décisions de la réunion du Comité de direction des 21 et 22 novembre 1995. Après quatre ans, le Service n'a toujours pas d'information précise sur le nombre de détenus qui doivent partager des cellules dans les aires d'isolement.

Le Sous-solliciteur général écrivait dans sa note de service (annexe G) que les observations du Service ne répondent pas aux préoccupations principales qu'a soulevées l'Enquêteur correctionnel au sujet de la double occupation des cellules dans les aires d'isolement. Nous n'avons toujours pas de réponse à ce sujet.

6. Programme de permissions de sortir

Nous avons appris en août 1995 (annexe A) qu'un projet de recherche sur les programmes de permissions de sortir commencerait à l'automne. Comme l'indique la note de service du SSG (annexe G), étant donné les limites de la base de données existante, on ne disposera pas de renseignements historiques qui permettraient de mesurer la diminution du recours à ce programme. L'Enquêteur correctionnel avait dégagé, en 1989 déjà, des préoccupations précises au sujet de la baisse du programme et des écarts qu'il présentait d'une région à l'autre.

Pour ce qui est de la préparation des cas et de l'accès aux programmes, le Service nous a fait savoir ceci en août 1995 (annexe A) :

- Après plusieurs années de développement et de mise à l'essai intensifs, un processus complet d'évaluation initiale des délinquants a été mis en oeuvre en novembre 1994.
- Un plan correctionnel révisé a été mis de l'avant à l'automne 1994. On veut ainsi aider le personnel à déterminer quels programmes conviennent au délinquant et à quel moment de la peine celui-ci doit y participer.
- En mars 1995, le Service a mis en oeuvre un certain nombre de mesures destinées à faciliter l'analyse et l'échange d'informations avec la CNLC ainsi qu'à rationaliser le processus de gestion des cas.
- L'administration centrale prendra des cas au hasard pour en vérifier la qualité de la gestion et voir si le travail a été terminé avant l'audience de la Commission.

Quels ont été les résultats de ces mesures?

On ne dispose toujours pas d'information précise sur les renonciations et les reports liés aux audiences de la CNLC.

5. Double occupation des cellules

Le Rapport annuel de l'an dernier concluait à ce sujet :

Le Service, à l'échelon national, ne semble pas prêter attention à cette question. J'estime donc nécessaire de répéter une chose évidente : il est inhumain de mettre deux personnes dans une cellule d'isolement, conçue pour une seule, pour une période pouvant atteindre vingt-trois heures sur vingt-quatre, des mois durant. Le maintien de cette pratique, sans contrôle, est contraire non seulement aux règles élémentaires du respect de la personne, mais aussi aux conventions internationales (p. 32, Rapport annuel 1994-1995).

Cette évidence a été réitérée lors de notre rencontre avec le Sous-commissaire principal, le 18 octobre 1995 (annexe B). Nous avons également demandé une copie du rapport mensuel du Service sur la double occupation des cellules. On nous a répondu à cette rencontre que le Commissaire adjoint, imputabilité et Mesure du rendement, s'enquerrait au sujet du rapport, que le Service ne pouvait toujours pas fournir d'information sur la double occupation des cellules à

La lettre du Sous-commissaire principal en date du 18 décembre 1995 n'aborde pas les problèmes qui avaient été soulevés dans la lettre au Commissaire du 29 mai 1995. Nous en avons discuté avec le Sous-commissaire principal le 25 janvier 1996, et il a promis de nous donner une réponse détaillée. On note que même si l'autorité décisionnelle a été confiée au Sous-commissaire principal en octobre 1995, nous avons reçu des copies de réponses des griefs, au troisième palier qui étaient signées par le directeur des Affaires des détenus, et ces réponses étaient datées de janvier 1996.

4. Préparation des cas et accès aux programmes

Tant au Service correctionnel qu'à la Commission nationale des libérations conditionnelles, la qualité et le caractère opportun de la préparation des cas et de l'accès aux programmes au sein des établissements et en milieu communautaire font problème.

Le rapport Méthé (Rapport sur l'admissibilité à la libération conditionnelle) donne un aperçu de la situation actuelle des détenus qui demeurent incarcérés même s'ils sont admissibles à la libération conditionnelle, et propose une stratégie en trois volets qui permettrait de remédier à ce problème. Ce rapport a été examiné et approuvé par le Comité de direction du Service le 19 décembre 1995 (annexe E).

L'examen des données du rapport, lequel admet les limites du Système de gestion des détenus, tend à indiquer que les raisons de cette hausse dans la population carcérale est attribuable en partie aux retards dans les mises en liberté sous condition et au nombre accru de révolutions de mises en liberté sous condition sans qu'aient été portées de nouvelles accusations.

Les recommandations du rapport ne permettront de régler ces problèmes que si le Service prend les mesures voulues dans le sens qui est proposé, et s'il peut mesurer l'effet de ces mesures. Il faut donc que le Service fasse connaître clairement ce qu'il veut faire et ce qu'il compte faire pour mesurer les résultats de ces initiatives.

Comme nous l'avons mentionné plus haut, les problèmes dégagés par le rapport Méthé concernent à la fois le SCC et la CNLC. Dans le contexte de nos discussions avec le Sous-commissaire principal, nous avons aussi rencontré le Président de la CNLC, M. Méthé du SCC, M. Trowbridge et M. Tully de la CNLC, ainsi que des membres du personnel du Vérificateur général qui font actuellement une étude des programmes et de la gestion des cas.

Une note à ce sujet. Le Service parle sans cesse des efforts qu'il fait pour remédier aux préoccupations des détenus sans passer par les voies officielles, et il dit que ses efforts font suite à l'examen qui a été commandé en décembre 1993. Premièrement, en dépit des projets pilotes et des programmes de formation qu'on dit avoir lancés, nous n'avons à ce jour vu aucune preuve du moindre changement, qu'il s'agisse de la politique ou des formalités. Deuxièmement, le règlement à l'amiable des plaintes a toujours été un élément central du processus existant, processus qui a été mis en oeuvre à la fin des années 1970. Qu'y a-t-il donc de différent ici? Troisièmement, quelle que soit l'efficacité des éléments non officiels du processus, la Loi oblige le Service à établir une procédure formelle qui permette de régler les griefs des détenus avec célérité et équité. La procédure qui existe en ce moment est foncièrement dysfonctionnelle.

Ces problèmes, quoi qu'ils soient des plus aigus au niveau de l'administration centrale, ne sont pas exclusifs à ce palier de la procédure. La Commission Arbour a fait, entre autres choses, état de l'impuissance de la procédure de règlement des griefs, à tous les niveaux, à donner réponse en temps opportun aux griefs des femmes qui étaient impliquées dans l'incident d'avril 1994. La directrice actuelle de la Prison des femmes a indiqué dans son témoignage de l'automne dernier que l'arrière à sa prison avait été éliminé ou était sur le point de l'être. Cette affirmation a été reprise dans le mémoire que le Service a présenté à la Commission en janvier 1996.

À la suite de certaines plaintes que les détenues de la Prison des femmes nous ont adressées parce qu'on tardait à traiter leurs griefs, nous avons fait une étude à l'automne de 1995. En conséquence, nous avons constaté qu'on tardait trop à donner suite à un grand nombre de plaintes et de griefs, et nous avons transmis les résultats de cette étude au Sous-commissaire régional. Dans sa réponse du 25 janvier 1996, le Sous-commissaire, admettant qu'il y avait bel et bien un arrière, a déclaré que les efforts visant à éliminer cette situation «avaient été entravés par divers problèmes qui réclamaient l'attention de la direction, par exemple, la Commission Arbour...»

Pour ce qui est de la délégation du processus décisionnel au troisième palier de la procédure de règlement des griefs, dont fait état la lettre adressée au Commissaire le 29 mai 1995, nous avons reçu une réponse du Sous-commissaire principal en date du 18 décembre 1995. Même si c'est le Sous-commissaire principal qui dispose de l'autorité voulue depuis octobre 1995, le témoignage qu'a donné le Commissaire à la mi-décembre 1995 devant la Commission Arbour montre bien que la position du Service n'a pas changé.

Selon le Résumé des décisions de la réunion du Comité de direction des 21 et 22 novembre (annexe D), il y a eu une rencontre avec le Ministre sur la question de la rémunération des détenus, le 20 novembre 1995.

À la rencontre du 6 décembre 1995 (annexe C), ces deux questions ont été soulevées de nouveau et on nous a répondu que le Ministre étudiait la question. Le Sous-commissaire principal a indiqué que le Service discuterait de la position de l'Enquêteur correctionnel avec le Ministre la prochaine fois que la question serait soulevée.

3. Procédure de règlement des griefs

À ce sujet, nous disions dans le Rapport annuel de 1994-1995 :

Le processus d'examen lancé en décembre 1993 en vue de faire des recommandations précises à la haute direction du Service sur une nouvelle procédure n'a pas encore donné lieu à des changements dans la politique ou les modalités (p. 26, Rapport annuel de 1994-1995).

Le système ne peut pas être bien géré si l'on ne dispose pas d'une information fiable sur son fonctionnement. Avant même d'apporter des changements dans la politique ou les modalités, la première étape consiste à mettre sur pied une base de données à l'intention de la direction afin qu'elle puisse évaluer dans quelle mesure la procédure actuelle permet d'atteindre les objectifs fixés (p. 26, Rapport annuel de 1994-1995).

En dépit du processus d'examen commandé par le Commissaire en décembre 1993, on n'a pas repensé les formalités et il n'existe toujours pas de système d'information.

Il y a eu récemment changement de personnel au sein de la Division des affaires des détenus et l'on s'est engagé de nouveau à remédier à l'arrière-excessif qui existe. À court terme, on pourrait fort bien assister à une diminution de l'arrière-actuel. Ces changements et ces promesses renouvelées ne régleront pas les carences systémiques qui sont associées à la gestion de la procédure de règlement des griefs dont nous avons fait état dans notre rapport annuel. Pour pallier ces carences systémiques, MM. Sloan et Reid ont été chargés d'établir une liaison directe avec le gestionnaire des Affaires des détenus.

— indiquer dans la politique l'obligation pour le Comité national de révision de donner aux détenus l'occasion, dans le cadre du processus décisionnel, de s'entretenir avec lui (p. 22, Rapport annuel de 1994-1995).

Ces deux questions ont été soulevées lors de notre rencontre du 6 décembre 1995 avec le Sous-commissaire principal (annexe E). On nous a répondu que le Commissaire adjoint, Politique correctionnelle et Planification générale, va déterminer si les détenus assistent aux audiences du CNR et que le Sous-commissaire principal va écrire aux membres du Comité de direction pour leur rappeler qu'il faut faire participer les détenus au processus décisionnel et qu'il faut faire preuve d'une très grande objectivité et équité dans ce processus. Nous n'avons reçu aucune nouvelle information sur ces deux questions.

Les observations et recommandations que présente l'Enquêteur dans son Rapport annuel de 1994-1995 ont désormais dix mois. Comme on l'a dit plus haut, tant et aussi longtemps que nous ne connaissons pas la position du Service sur toutes les questions relatives aux USD, ce qui comprend l'engagement qu'il a pris de fermer cette unité au pénitencier de la Saskatchewan et de mener une vérification des opérations des USD, nous n'aurons d'autre choix que de réitérer ces observations et recommandations.

2. Rémunération des détenus

Il y a deux questions fondamentales ici auxquelles le Service n'a pas donné réponse en août 1995.

D'abord, il n'y a pas eu «examen approfondi des répercussions de la rémunération des détenus dans le domaine des opérations des établissements et dans celui de la mise en liberté sous condition» (p. 24, Rapport annuel de 1994-1995). Deuxièmement, on n'a pas donné suite à la recommandation : «qu'une indemnité quotidienne minimale suffisante soit déterminée et que tous les détenus, sans distinction, reçoivent cette allocation quotidienne de base» (p. 40, Rapport annuel de 1994-1995).

Ces deux questions ont été soulevées à la rencontre d'octobre 1995 (annexe B). On nous a répondu que le Commissaire adjoint, Communications et Services à la haute direction, «vérifierait pour voir si la proposition du chef des Relations de travail au Ministère sur le rajustement de la rémunération des détenus était étudiée». Le Sous-commissaire principal a accepté en outre au cours de cette rencontre de discuter de la question avec le directeur exécutif lorsque sera connue la décision du Ministère.

1. Unités spéciales de détention

Un mot d'abord sur le rapport du Service sur les USD pour la période d'avril 1994 à mars 1995. Nous avons reçu l'ébauche du rapport en août 1995 avec l'assurance que nous recevions « bientôt » le rapport final. L'ébauche du rapport a été étudiée à ce moment-là par le président du Comité national de révision des USD et par M. G. Rhodes de l'administration régionale de l'Atlantique.

À la rencontre d'octobre 1995 avec le Sous-commissaire principal (annexe B), nous avons demandé qu'une copie du rapport final nous soit fournie avant la rencontre suivante. On nous a répondu que le Commissaire adjoint, imputabilité et Mesure du rendement, répondrait directement aux problèmes que nous soulevions.

Il est dit au Résumé des décisions du Comité de direction du SCC en date du 19 décembre 1995 (annexe E) sous la rubrique Rapport annuel sur les USD : « le rapport est approuvé par le Comité après discussion. Le rapport sera communiqué officiellement à l'Enquêteur correctionnel, qui recevra également une note lui disant comment le SCC entend donner suite à ses constatations ». On note avec intérêt que le Sous-solliciteur général écrivait au sujet des USD en août 1995 : « Il sera nécessaire d'examiner les rapports annuels (les rapports annuels sur les USD du SCC) et de s'assurer que ces rapports sont terminés à temps » (annexe G).

Tant et aussi longtemps que nous n'aurons pas eu l'occasion de prendre connaissance du Rapport et de la note en question, nous ne serons pas en mesure de dire autre chose que ce que nous avons dit dans le Rapport annuel de 1994-1995. (Nous avons reçu le 7 février 1996 le Rapport du Service sur les USD pour la période d'avril 1994 à mars 1995.)

Deuxièmement, il y a deux questions que nous avons relevées dans notre Rapport annuel et dont il n'est pas fait état dans l'ébauche du Rapport du Service sur les USD :

— établir un Comité national de révision auquel participe la direction nationale et qui a de façon manifeste le pouvoir et l'objectivité nécessaires pour exercer ses fonctions comme il convient et d'une manière équitable

ANNEXE A

17 février 1996

APERÇU : QUESTIONS DÉCOULANT DU RAPPORT ANNUEL DE 1994-1995

Le présent document indique où en sont les questions découlant du Rapport annuel de 1994-1995 depuis que nous avons reçu les réponses du Service correctionnel en août 1995.

Nous avons eu deux rencontres avec le Sous-commissaire principal et son personnel : les 18 octobre et 6 décembre 1995. En outre, nous avons rencontré le Sous-commissaire principal le 25 janvier 1996 afin d'étudier un certain nombre de cas individuels. Nous ne ferons pas mention de ces cas ici et nous en traiterons séparément.

On trouvera en annexe à l'Aperçu :

A) la réponse du Service au Rapport annuel de 1994-1995 du 21 août 1995;

B) le procès-verbal de la rencontre du 18 octobre 1995 avec le sous-commissaire principal;

C) le procès-verbal de la rencontre du 6 décembre 1995 avec le sous-commissaire principal;

D) le Résumé des décisions de la réunion du Comité de direction du Service des 21 et 22 novembre 1995;

E) le Résumé des décisions de la réunion du Comité de direction du Service (conférence téléphonique du 19 novembre 1995);

F) la lettre du sous-commissaire principal du 14 décembre 1995 concernant le recours à la force et les blessures graves (art. 19 de la LSCMLC);

G) la note du sous-solliciteur général au solliciteur général en date du 21 août 1995, au sujet du rapport annuel de l'Enquêteur correctionnel de 1994-1995;

H) la lettre du président de la CNLC au commissaire du SCC en date du 16 juin sur la délégation de la PSSE au SCC.

CONCLUSION

La dernière année a été mouvementée, et parfois même pénible, pour les services correctionnels fédéraux, mais il faut y voir une belle occasion pour tous d'apporter les changements qui s'imposent.

Une occasion semblable s'est présentée, quoique dans des circonstances moins pénibles, quand a été adoptée en novembre 1992 la nouvelle *Loi sur le système correctionnel et la mise en liberté sous condition*. Je crois que les événements de la dernière année vont jeter une lumière nouvelle sur les dispositions de cette loi. Je conclusais mon Rapport annuel de 1992-1993, après l'entrée vigueur de cette loi, en faisant l'observation suivante :

Cette loi clarifie les exigences liées à l'équité procédurale et administrative dans bon nombre de domaines dont il est question dans ce rapport, et établit un lien entre ces exigences et les « principes » qui y sont énoncés pour guider le Service dans l'exécution de son mandat.

Comme je l'ai indiqué dans l'introduction au présent rapport, la Loi précise également la nature de notre mandat et de nos attributions, et renforce notre obligation de rendre compte au Ministre des problèmes touchant les détenus auxquels le Service n'accorde pas toute l'attention voulue en temps opportun. La réalisation de notre mandat dépend dans une large mesure de la volonté du Service, à tous les paliers, d'examiner en profondeur, dans les meilleurs délais et d'une manière objective, les questions que nous portons à son attention.

Bien que la collaboration obtenue au niveau des établissements et des régions soit, dans la plupart des cas, encourageante, au palier national, les réactions sont, dans la plupart des cas, très lentes à venir, et témoignent d'une attitude défensive et circonspecte. Je formule le vœu qu'elles connaîtront et comprendront mieux la nouvelle loi, toutes les parties concernées par le processus correctionnel accepteront la responsabilité qu'elles ont de s'assurer que les problèmes touchant les détenus reçoivent en temps opportun toute l'attention objective qu'ils méritent.

Je garde espoir. Il me tarde également de voir comment nous allons relever les défis évidents qui nous attendent au cours de la prochaine année. Comme je l'ai dit dans l'introduction, j'ai la certitude qu'il y a moyen de trouver des solutions aux problèmes dont je fais état dans mon rapport, et je suis disposé à maintenir avec le Commissaire du Service correctionnel une collaboration transparente et franche afin de l'aider à donner suite aux préoccupations relatives aux détenus.

Le nombre de détenus mis en isolement continue d'augmenter, les détenus sont placés à deux et parfois à trois par cellule, les besoins en matière de douches et d'exercice physique ne sont pas toujours satisfaits, les opinions requises de psychologues sur les cas d'isolement de longue durée, ne sont pas systématiquement rédigées et les plaintes adressées à notre Bureau sur les conditions d'isolement et les motifs des placements continuent de s'accroître. La présence quotidienne de cadres supérieurs est nécessaire dans ce secteur.

Le directeur d'établissement a le pouvoir de mettre des détenus en isolement, de les y laisser ou de les faire sortir du secteur, et le pouvoir de faciliter les transfèvements de l'établissement afin de réduire l'isolement de longue durée.

Par conséquent, ce serait au directeur ou au sous-directeur de se rendre quotidiennement dans l'aire d'isolement pour y rencontrer les détenus qui s'y trouvent. Déléguer ce pouvoir à un responsable d'un niveau inférieur est contraire à l'objet de l'article 36 de la Loi.

c) 1994 - 1995

Le Commissaire a donné, le 22 décembre 1994, une instruction sur cette question, dont voici un extrait :

[Traduction]

Je compte que le directeur ou le sous-directeur visitera l'aire d'isolement au moins une fois la semaine, sauf s'ils ont de bonnes raisons d'agir autrement. Il faut faire une véritable visite, comportant au moins l'inspection des lieux, l'examen des registres, une rencontre avec le personnel et avec les détenus qui en font la demande. Je demande aux sous-commissaires de vérifier le registre, comme je le fais, lorsque je me rends dans des établissements, afin de confirmer que c'est bien ainsi que les choses se passent. Cela n'annule pas l'obligation d'une visite quotidienne par un gestionnaire d'unité, conformément à la DC.

Dans un an, je réexaminerai la situation et, si le problème persiste, la DC sera modifiée.

C'est un pas dans la bonne direction. L'objectif de notre Bureau était d'assurer la présence de la haute direction, comme l'exige la Loi, dans l'aire d'isolement. On peut maintenant se demander : cette directive sera-t-elle mise en oeuvre et la présence de la haute direction dans l'aire d'isolement aidera-t-elle à réduire les préoccupations liées à l'isolement? À cet égard, je suis encouragé par le fait que le Commissaire a promis de réexaminer la situation après un an.

d) 1995-1996 - Situation actuelle

Le Commissaire m'a écrit récemment pour me faire connaître les résultats de l'examen de cette question par le Service, et il m'indique qu'on se conforme de manière générale aux changements qui ont été apportés à la politique le 22 décembre 1994.

Comme je l'ai dit auparavant, je dois m'assurer que le Service a des gestionnaires supérieurs dans les aires d'isolement, comme le veut la Loi. Du point de vue de la politique, je considère que cette affaire est classée.

Cette réponse était totalement inacceptable, et nous avons fait de nouvelles démarches auprès du Commissaire intermédiaire. Dans une lettre datée du 11 février 1993, celui-ci déclarait :

[Traduction]

En vertu d'une décision du Comité de direction, la responsabilité des visites quotidiennes peut être déléguée aux sous-directeurs, aux directeurs adjoints ou aux gestionnaires d'unité. La directive du Commissaire pertinente est modifiée en conséquence et devrait être prête sous sa forme révisée au cours du mois prochain.

Permettez-moi, cependant, de préciser quelle est notre position actuellement. Nous avons pris cette décision lors de la réunion de janvier du Comité de direction. Elle doit prendre effet immédiatement, et les sous-commissaires régionaux devaient en informer leurs directeurs d'établissement.

Depuis novembre 1991, le Service agit en violation de sa politique nationale. J'ai signalé ce manquement au Commissaire en août 1992, et le Service n'a pris aucune mesure corrective acceptable à ce sujet. Depuis le 1^{er} novembre 1992, le Service contrevient aux dispositions du paragraphe 36(2) de la *Loi sur le système correctionnel et la mise en liberté sous condition*. La «décision du Comité de direction» de janvier 1993 ne constitue pas une délégation au sens où l'entend l'article 6 du Règlement d'application de la Loi. La directive du Commissaire dont il est question dans la lettre du Commissaire intermédiaire du 11 février 1993 n'a pas été modifiée. En résumé, le Service enfreint en toute connaissance de cause sa propre politique depuis novembre 1991 et la *Loi sur le système correctionnel et la mise en liberté sous condition* depuis le 1^{er} novembre 1992, et n'a pris jusqu'à maintenant aucune mesure pour remédier à la situation.

En ce qui concerne le niveau de délégation, j'estime que le fait de transmettre la responsabilité des visites à un palier inférieur à celui de sous-directeur est contraire à l'objet de l'article 36 de la Loi, qui est de faire en sorte que les détenus mis en isolement puissent avoir un accès raisonnable à un haut responsable, qui ne prend pas part aux activités courantes ni à la gestion de l'aire d'isolement, pour s'assurer que leurs préoccupations recevront l'attention requise dans les meilleurs délais. Dans cette perspective, je recommande le maintien et la mise en oeuvre de la politique existante.

b) 1993 - 1994

Selon la *Loi sur le système correctionnel et la mise en liberté sous condition* et, avant l'entrée en vigueur de celle-ci, la directive du Commissaire, le directeur ou le sous-directeur de l'établissement doit se rendre au moins une fois par jour dans l'aire d'isolement prévenir pour y rencontrer, sur demande, tout détenu qui s'y trouve.

Le Service n'a pas commenté mes observations selon lesquelles il enfreint en toute connaissance de cause sa propre politique (depuis novembre 1991) et la Loi (depuis novembre 1992) et il n'a pris avant juin 1993 aucune mesure pour remédier à cette situation.

En juin 1993, le Service a agi, en confiant par délégation la responsabilité des visites quotidiennes aux gestionnaires d'unité. Le Commissaire a déclaré, au sujet de la délégation, que la décision du Comité de direction était de déléguer la responsabilité des visites dans les aires d'isolement à des cadres de niveau supérieur. Selon la Directive, ce niveau ne doit normalement pas être inférieur à celui de gestionnaire d'unité. Avec tout le respect que l'on doit aux gestionnaires d'unité, ces derniers ne sont pas des cadres supérieurs. Ces gestionnaires sont chargés des opérations quotidiennes d'une unité, et l'aire d'isolement ferait partie de cette unité. L'objet de la Loi est de faire en sorte que les détenus placés en isolement puissent avoir un accès raisonnable sur place à un haut responsable, qui ne prend aucune part aux activités quotidiennes de l'aire d'isolement.

La difficulté que pose le respect de l'article 19 de la *Loi sur le système correctionnel et la mise en liberté sous condition* ne réside pas dans la définition de ce qui constitue une blessure grave. Je crois que la difficulté réside dans la compréhension des exigences de la Loi et dans le fait que la politique du Service ne reflète pas raisonnablement ces exigences. C'est pourquoi le Service ne respecte toujours pas l'article 19.

La réponse du Service à la question des blessures subies par les détenus ne donne pas satisfaction, et ne répond pas non plus aux multiples préoccupations que posent les enquêtes. Étant donné les observations que j'ai déjà faites dans mes rapports antérieurs et celles qu'a faites la Commission Arbour sur le processus d'enquête du Service, je tâcherai de rencontrer le Commissaire dans un avenir très proche afin de clarifier les préoccupations liées aux enquêtes.

17. VISITES DES AIRES D'ISOLEMENT ET DÉLÉGATION

a) 1992-1993

En vertu des modifications que le Service a apportées en novembre 1991 à la directive du Commissaire sur l'isolement, le directeur ou le sous-directeur du pénitencier ou une personne agissant en leur nom doit visiter quotidiennement l'aire d'isolement et rencontrer tout détenu qui s'y trouve et qui en a fait la demande. Les visites que nous avons effectuées dans des établissements et les plaintes de détenus mis en isolement que nous avons examinées nous ont amenés à constater que ces nouvelles exigences n'étaient pas respectées dans certains établissements. Nous avons signalé le problème aux autorités compétentes au palier des établissements et des régions, et comme elles ne nous ont pas assuré que la politique établie était suivie à la lettre, j'ai écrit au commissaire du Service correctionnel le 17 août 1992 pour lui faire savoir notamment que l'examen des pratiques d'isolement dans les établissements démontrait clairement que ni les directeurs ni les sous-directeurs ne visitaient quotidiennement l'aire d'isolement. J'invitais le Commissaire à se prononcer sur cette question et recommandais que des directives plus précises soient émises concernant cette politique.

Le 1^{er} novembre 1992, la *Loi sur le système correctionnel et la mise en liberté sous condition* entrait en vigueur. Le paragraphe 36(2) de la Loi se lit comme suit :

Le directeur visite l'aire d'isolement au moins une fois par jour et, sur demande, rencontre tout détenu qui s'y trouve.

Cette responsabilité qui incombait au «directeur» peut être déléguée à un membre du personnel qui est désigné par son nom ou par son poste dans les ordres permanents de l'établissement ou dans les directives du Commissaire. La population carcérale doit pouvoir accéder facilement à cet instrument de délégation.

Le Service correctionnel du Canada a émis des directives du Commissaire révisées le 1^{er} novembre 1992, date de l'entrée en vigueur de la Loi. Les exigences de la Directive sur l'isolement concernant les visites quotidiennes restaient les mêmes : aucune disposition n'était prévue pour la délégation de cette fonction à un palier inférieur à celui de directeur ou de sous-directeur.

Le 10 décembre 1992, le Commissaire intérimaire répondait enfin à notre lettre du 17 août précédant pour nous faire savoir qu'il s'opposait personnellement à la politique en question et qu'il avait l'intention de soulever le problème à l'occasion de la réunion du Comité de direction prévue pour janvier 1993 en proposant de déléguer cette responsabilité à un palier inférieur. Le Commissaire intérimaire terminait en disant qu'il n'était donc pas disposé, à ce stade, à ordonner aux directeurs des pénitenciers de se conformer à la lettre à la décision prise antérieurement.

- tous les incidents entraînant une blessure grave, selon la définition qu'en donnerait une personne raisonnable, ne font pas l'objet d'une enquête, comme l'exige l'article 19;
- la qualité des rapports d'enquête que notre Bureau a reçus est trop souvent peu satisfaisante.

On me dit que le Service procédera bientôt à l'examen de ses procédés d'enquête et j'appuie totalement cette initiative.

c) 1994 - 1995

Les principales préoccupations sur cette question continuent de porter sur le processus d'enquête du Service et les responsabilités de ce dernier dans l'application de l'article 19 de la *Loi sur le système correctionnel et la mise en liberté sous condition*. L'an dernier, dans le rapport annuel, j'écrivais entre autres choses :

- tous les incidents entraînant une blessure grave, selon la définition qu'en donnerait une personne raisonnable, ne font pas l'objet d'une enquête, comme l'exige l'article 19;
- la qualité des rapports d'enquête que notre Bureau a reçus est trop souvent peu satisfaisante.

On me dit que le Service procédera bientôt à l'examen de ses procédés d'enquête et j'appuie totalement cette initiative.

L'Instruction provisoire du Service intitulée Rapports sur les blessures des délinquants, distribuée en juillet 1994, donnait une définition de blessures graves, mais notre Bureau continue de rencontrer des cas où des blessures qui normalement devraient relever de cette définition n'ont pas fait l'objet d'enquêtes aux termes de l'article 19.

Selon cette instruction provisoire, une copie du rapport d'enquête, avec la réponse à des recommandations, sera remise, par l'entremise du sous-commissaire de la région ou du Commissaire, à l'Enquêteur correctionnel. L'immense majorité des rapports rédigés aux termes de l'article 19 que le Bureau continue de recevoir ne sont accompagnés d'aucune réponse aux recommandations de la part de l'autorité responsable.

Pour répondre à ces préoccupations, il faut apporter des précisions à l'Instruction provisoire du Service afin que tous les incidents entraînant la mort ou une blessure grave fassent l'objet d'une enquête suivant les dispositions de l'article 19 de la *Loi sur le système correctionnel et la mise en liberté sous condition* et que les rapports d'enquête transmis à notre Bureau soient complets. Le Service doit en outre veiller à ce que son processus d'enquête, non seulement soit complet et objectif, mais aussi permette, au niveau régional et au niveau national, de faire des corrélations entre les résultats de ses enquêtes, de les analyser et d'assurer un suivi, en temps opportun et de façon efficace.

En ce qui concerne l'examen par le Service de son processus d'enquête, on m'a récemment fait savoir qu'un rapport définitif avait été présenté et que la plupart des 71 recommandations qui figuraient dans le rapport avaient été acceptées.

J'examinerais avec plaisir les changements en matière de politiques et de procédures qui découlent de ces recommandations.

- la définition *ad hoc* de ce qui constitue une «blessure grave» reste à l'état d'ébauche;

En ce qui concerne la question connexe des responsabilités du Service en vertu de l'article 19 de la *Loi sur le système correctionnel et la mise en liberté sous condition* :

donnée.
présent rapport, aucune directive du Commissaire relative aux blessures subies par les détenus n'avait été version serait distribuée pour examen et commentaire avant la fin de l'année. À la date de rédaction du sujet de laquelle nous avons fait des observations au Service. Nous avons plus tard appris qu'une nouvelle J'ai reçu à l'automne de 1993 un projet de directive intitulée Rapports sur les blessures des délinquants, au On m'a d'abord fait savoir en août 1993, en réponse à ma recommandation appuyant l'élaboration d'une directive du Commissaire distincte afin de remédier aux incohérences et à l'absence de coordination dans ce domaine, qu'une directive révisée serait donnée avant la fin de décembre 1993.

b) 1993 - 1994

délais.
sur le système correctionnel et la mise en liberté sous condition, me soient envoyés dans les meilleurs Par conséquent, je recommande que le Service prenne immédiatement les mesures nécessaires pour que tous les rapports d'enquêtes, y compris les commentaires du Commissaire, requis par l'article 19 de la *Loi*

Loi.
«blessure grave». En fait, je n'ai toujours pas reçu le moindre rapport requis en vertu de l'article 19 de la Commissaire ne m'a pas encore envoyé le moindre rapport d'enquête sur le cas d'un détenu ayant subi une des nombreuses demandes qu'il a reçues à cet effet. La Loi est entrée en vigueur le 1^{er} novembre 1992, et le Le Service n'a toujours pas donné une définition *ad hoc* de ce qui constitue une «blessure grave», en dépit Le Service remet à l'enquêteur correctionnel une copie du rapport.

En outre, le paragraphe 19(2) se lit comme suit :

commissaire ou à son délégué.
-même si une autre est déjà en cours au titre de l'article 20 - et remettre un rapport au En cas de décès ou de blessure grave d'un détenu, le Service doit sans délai faire enquête

complémentaires au paragraphe 19(1) :

La *Loi sur le système correctionnel et la mise en liberté sous condition* prévoit des dispositions incohérences et au manque de coordination en la matière.
Je recommande que le Service accorde une attention prioritaire à cette question et j'appuie sa proposition

mesures à prendre lorsqu'un détenu est blessé, quelles que soient les circonstances de l'incident.
subies par les détenus qui énoncerait des lignes directrices et des objectifs clairs à l'échelle nationale sur les J'ai récemment été informé que le Service a pris plusieurs mesures afin de remédier à ce problème, notamment en proposant de rédiger une directive du Commissaire distincte relativement aux blessures n'indique, de surcroît, que les autorités compétentes au palier des établissements et des régions examinent ces relevés et prennent les mesures correctives qui s'imposent. Nous avons porté ces préoccupations à l'attention du personnel de l'administration centrale en mai 1992.

subies par un détenu n'est pas rempli dans tous les cas, à l'exception des accidents de travail. Rien Ainsi, nous avons constaté que, contrairement à ce que l'on nous avait affirmé, le Rapport sur les blessures

Le Service continue en disant que « de plus en plus d'enquêtes sont menées officiellement à la suite d'un cas de recours à la force ». Je n'ai aucune idée de ce qui constitue une « enquête officielle », mais je sais que c'est l'absence d'une structure formelle pour l'examen par le SCC de ce genre d'incident qui a conduit aux observations et aux recommandations initiales du Bureau dans ce domaine. Récemment, nous avons de nouveau écrit au Commissaire pour donner d'autres exemples d'incohérences dans la gestion et le compte rendu de ces incidents par le Service.

Afin de pouvoir répondre d'une manière raisonnable aux préoccupations soulevées sur cette question, le Service doit veiller à ce que :

- tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et objective, qui tienne compte des observations des détenus concernés;
- la direction ait la responsabilité d'examiner les comptes rendus et de faire en sorte que des mesures correctives soient prises;

- une base de données soit tenue à jour dans les régions et à l'échelon national sur les cas de recours à la force, le genre de force utilisée, les circonstances, le nombre de blessures, etc. en vue d'un examen et d'une analyse visant à faire en sorte que de tels incidents soient le plus rares possible. (Combien y a-t-il d'incidents de ce genre au cours d'une année?)

Je n'arrive pas à comprendre pourquoi le Service continue d'être peu disposé à faire en sorte que les cas de recours à la force fassent l'objet d'une enquête complète et objective.

d) 1995-1996 - Situation actuelle

En réponse aux préoccupations que j'ai exprimées au sujet du recours à la force, le Service m'a écrit récemment que les enquêtes doivent être complètes et qu'il faut s'assurer que tous les rapports requis ont été rédigés et qu'on a respecté les pratiques énoncées dans la politique du Service.

Le Service est également d'accord pour dire qu'il faut mettre en place des pratiques qui permettent de contrôler la qualité et le caractère opportun des rapports d'enquête sur le recours à la force et s'assurer que des correctifs sont pris au besoin, mais il n'a pas dit comment cela sera fait ni par qui.

Le Service admet de plus qu'on ne fait aucune analyse pour le moment des données recueillies, et propose que les données sur le recours à la force soient contrôlées par l'administration centrale mensuellement, et que les régions analysent les données trimestriellement, mais là encore, on ne dit pas quand cela sera fait ni comment.

Je crois que le Service doit nous donner plus de détails à ce sujet.

16. BLESSURES SUBIES PAR LES DÉTENUÉS

a) 1992-1993

En vertu de la *Loi sur le système correctionnel et la mise en liberté sous condition*, le Service doit « prendre toutes les mesures utiles pour que le milieu de vie et de travail des détenus (...) soient sains, sécuritaires (...) ».

Les enquêtes que nous avons menées concernant des problèmes liés à des blessures subies par des détenus ont révélé un manque d'uniformité et de cohérence au sein du Service dans le signalement d'incidents de ce genre et la tenue d'enquêtes subséquentes.

- le Manuel de sécurité du Service a été modifié pour indiquer que l'examen du nouveau rapport par le directeur de l'établissement dans un cas habituel de recours à la force constituerait l'enquête nécessaire.

Malheureusement, tous ces changements n'ont pas eu pour effet de résoudre le problème soulevé ici. En modifiant le Manuel de sécurité pour définir l'examen par le directeur de l'établissement du rapport sur le recours à la force comme constituant une « enquête » dans les cas habituels, on a, au fond, annulé la modification apportée à la directive du Commissaire pour exiger une enquête dans tous les cas de recours à la force. Pratiquement tout recours à la force est maintenant défini comme habituel. En outre, le nouveau rapport sur le recours à la force n'étant pas utilisé, rien n'indique que les détenus sont avisés de la possibilité de faire des observations et nous n'avons guère d'indices du fait que l'examen du directeur d'établissement, avant qu'il soit déterminé que le recours à la force était un cas habituel, ait comporté la prise en compte des observations des détenus.

Cette série de modifications, que cela soit voulu ou non, n'a eu d'autre résultat que de faire sanctionner les anciennes pratiques dans la politique actuelle. Je ne crois pas que l'examen par le directeur d'établissement du rapport sur le recours à la force, modifié ou non, constitue une enquête. Je ne crois pas non plus qu'un recours à la force devrait être considéré comme un cas habituel ni être décrit comme tel. Je recommande donc encore une fois au Service de veiller à ce que tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et que les détenus concernés soient interrogés dans le cadre de cette enquête.

Le Service n'a pas donné suite à mon autre recommandation dans ce domaine au sujet de la responsabilité de la direction, et c'est pourquoi je recommande de nouveau que la Directive énonce clairement les responsabilités des cadres supérieurs pour ce qui est de s'assurer que les rapports d'enquêtes sont complets et objectifs, et que les mesures de suivi qui s'imposent sont analysées, coordonnées et mises en oeuvre dans les meilleurs délais aux paliers régional et national.

c) 1994 - 1995

Dans mon rapport de l'an dernier, j'ai de nouveau recommandé, comme l'année précédente, que tous les incidents où il y a eu recours à la force fassent l'objet d'une enquête complète et que les détenus concernés soient interrogés dans le cadre de cette enquête.

J'avais repris cette recommandation parce que la série de modifications présentées par le SCC l'année précédente ne répondait pas aux observations faites par notre Bureau il y a deux ans, soit « que le Service ne menait pas toujours les enquêtes requises par sa politique et que, même lorsqu'une enquête est effectuée, rien n'indique que les détenus concernés aient été interrogés ni que les observations et les recommandations formulées à l'issue des enquêtes aient été examinées et mises en application en haut lieu ».

Dans sa réponse sur cette question, en mars 1995, le Service disait ce qui suit :

[Traduction]

Nous ne partageons pas l'avis de l'Enquêteur correctionnel selon qu'une enquête, aux termes de l'article 19 de la LSCMLC, est nécessaire dans chaque cas où se produit un recours à la force. Ces enquêtes sont coûteuses et longues.

Au cours des deux années où j'ai parlé de ce problème, il n'a jamais été question dans le rapport annuel du fait que ces incidents devaient en faire l'objet d'enquêtes aux termes de l'article 19 de la *Loi sur le système correctionnel et la mise en liberté sous condition*. En fait, notre Bureau n'a jamais mentionné l'article 19 de la Loi en ce qui concerne les enquêtes sur le recours à la force. C'est pourquoi je ne comprend pas du tout à quoi le Service peut faire allusion ni les raisons sur lesquelles il appuie sa position.

J'attends avec impatience le rapport de vérification et je transmettrai mes commentaires au Service.

15. RECOURS À LA FORCE - ENQUÊTES ET SUIVI

a) 1992-1993

Aux termes de la politique du Service énoncée dans la directive du Commissaire qui porte sur cette question, le recours à la force est défini comme suit :

la contrainte physique des détenus par le contrôle physique et par l'utilisation de matériel de contrainte, d'agents chimiques et d'irritants par pulvérisation sanctionnés, de matraques, de tuyaux d'arrosage, de chiens patrouilleurs et d'armes à feu.

On lit également dans cette même Directive :

À la suite d'un incident où il y a eu recours à la force, le directeur ou une autorité désignée doit normalement demander qu'une enquête soit faite.

Nous avons remarqué, en examinant des plaintes au sujet du recours à la force, que le Service ne menait pas toujours les enquêtes requises par sa politique. Nous avons également constaté que, même lorsqu'une enquête est effectuée, rien n'indique, dans la plupart des cas, que l'enquêteur ait contacté les détenus concernés ni que les recommandations formulées à l'issue des enquêtes aient été examinées et mises en application en haut lieu.

Le Service est tenu de s'assurer que les incidents où il y a eu recours à la force font l'objet d'une enquête approfondie et objective, et que les mesures correctives qui s'imposent sont prises dans des délais raisonnables. Nous avons porté cette question à l'attention des hauts responsables du Service correctionnel, tant au palier régional qu'au palier national, et avons été informés que des modifications au Manuel de sécurité du Service sont à l'étude. Je recommande que le Service modifie sa politique de manière à s'assurer que tous les incidents où il y a eu recours à la force font l'objet d'une enquête et que les détenus concernés sont interrogés dans le cadre de cette enquête. Il conviendrait d'insérer ces modifications dans la directive du Commissaire où elles seraient le mieux placées. Je recommande également que la Directive énonce clairement les responsabilités des cadres supérieurs pour ce qui est de s'assurer que les rapports d'enquêtes sont complets et objectifs, et que les mesures de suivi qui s'imposent sont analysées, coordonnées et mises en oeuvre dans les meilleurs délais aux paliers régional et national.

b) 1993 - 1994

En réponse à ma recommandation où je lui demandais de s'assurer que «tous les incidents où il y a eu recours à la force font l'objet d'une enquête et que les détenus concernés sont interrogés dans le cadre de cette enquête», le Service a procédé, à l'automne de 1993, à un certain nombre de changements touchant sa ligne de conduite et sa façon de procéder :

- la directive du Commissaire n° 605 (Recours à la force) a été modifiée par insertion de ce qui suit : «À la suite d'un incident où il y a eu recours à la force, le directeur ou une autorité désignée doit demander qu'une enquête soit faite»;
- le rapport du Service sur le recours à la force a été modifié de façon que le détenu puisse indiquer s'il souhaite ou non présenter des observations au directeur de l'établissement;

b) 1993 - 1994

Le Service n'a pas commenté les reproches que je lui faisais l'an dernier parce qu'il ne conservait pas de comptes rendus d'audiences disciplinaires.

Selon le paragraphe 33(1) du *Règlement d'application de la Loi sur le système correctionnel et la mise en liberté sous condition* :

Le Service doit veiller à ce que toutes les auditions disciplinaires soient enregistrées de manière qu'elles puissent faire l'objet d'une révision complète.

En dépit du *Règlement*, des observations faites dans le passé par le Bureau et de l'engagement pris en 1990 par le Service de rédiger un compte rendu de toutes les audiences disciplinaires, le Bureau continue de rencontrer des cas où il n'existe pas de compte rendu satisfaisant. Je recommande donc au Service de prendre immédiatement les mesures qui s'imposent pour que toutes les audiences portant sur des manquements à la discipline soient enregistrées de manière qu'elles puissent faire l'objet d'un examen complet. Je recommande également que le Service procède à une vérification de ses lignes de conduite et pratiques actuelles en matière de discipline, y compris en ce qui concerne l'isolement disciplinaire, afin de s'assurer qu'elles sont conformes à la Loi et au *Règlement*.

c) 1994 - 1995

Le Commissaire a informé le Bureau, en octobre 1994, que l'on avait de nouveau rappelé aux directeurs d'établir l'obligation de conserver un compte rendu de l'audience disciplinaire.

L'an dernier, réagissant au nombre croissant de plaintes relatives au processus disciplinaire, je recommandais ce qui suit :

Que le Service procède à une vérification de ses lignes de conduite et pratiques actuelles en matière de discipline, y compris en ce qui concerne l'isolement disciplinaire, afin de s'assurer qu'elles sont conformes à la Loi et au *Règlement*.

Le Service m'a fait savoir en octobre 1994 qu'un examen du processus disciplinaire et de sa conformité avec le *Règlement* était en train de se faire, et qu'un compte rendu des conclusions serait prêt en octobre. Je n'ai jamais vu le résultat de cet examen.

Le Commissaire m'a plus tard signalé qu'une vérification complète du processus avait été effectuée en 1992. Il ajoutait qu'il avait été décidé en décembre 1993 que, avant de poursuivre l'examen de cette fonction, y compris en ce qui concerne les dispositions législatives, on devrait attendre que le processus prévu dans la LSCMLC soit utilisé.

Notre Bureau n'a pas été capable de trouver trace de la vérification complète dont il est question et je remarque que la *Loi sur le système correctionnel et la mise en liberté sous condition* a été adoptée il y a 30 mois.

Le fait est que, sur cette question, le Service n'a pas donné suite à ma recommandation de l'an dernier.

d) 1995-1996 - Situation actuelle

On m'apprend que le Service est en train de terminer une vérification sur la discipline des détenus. Nos services ont été consultés lors de la phase préparatoire de la vérification car on voulait s'assurer qu'il serait donné suite aux préoccupations que j'avais soulevées dans ma recommandation de mars 1994.

En ce qui concerne la plainte précitée, nous nous posons de sérieuses questions sur la légitimité de l'accusation et de la condamnation, ainsi que sur le bien-fondé de l'amende imposée.

Le Service est tenu de s'assurer que les détenus obtiennent en temps opportun tous les renseignements pertinents se rapportant à la gestion de leur cas. C'est pourquoi le rapport en question a été remis au plaignant. Le Service doit également s'assurer que les renseignements contenus dans ses rapports sont exacts et complets, et que les détenus ont accès à un mécanisme de recours lorsque des corrections doivent y être apportées. Rien n'indique que le plaignant ait été avisé, soit avant qu'il consigne ses objections dans le rapport, soit après, de la voie de recours qu'il convenait d'utiliser pour réclamer des corrections. L'amende de vingt-cinq dollars, soit l'équivalent de plus d'une semaine de salaire, était, à mon sens, excessive et, de surcroît, contraire à l'objet de la sanction disciplinaire qui doit être d'abord et avant tout corrective.

Le directeur de l'établissement et le sous-commissaire régional concernés ont examiné la question pour tenter de la résoudre. Tous deux ont corroboré le bien-fondé de la condamnation et de l'amende infligée. En mai 1992, nous avons écrit à l'administration centrale pour exposer nos préoccupations, en indiquant que le directeur de l'établissement et le sous-commissaire régional avaient soigneusement examiné l'affaire, et pour demander un nouvel examen. En juin 1992, le Commissaire adjoint à la haute direction nous a répondu qu'il avait examiné la correspondance que nous avions échangée avec le directeur de l'établissement et le sous-commissaire régional, et qu'il appuyait leur position. Il ajoutait que si nous avions d'autres questions à ce sujet, nous devrions les poser directement au directeur de l'établissement et au sous-commissaire.

À la suite d'un nouvel examen de l'affaire, j'ai écrit au Commissaire pour lui faire savoir qu'à mon avis, l'accusation était injustifiée, la condamnation abusive et l'amende excessive. J'ajoutais que l'établissement n'avait pas conservé de compte rendu de l'audience disciplinaire en question, ce qui n'était pas conforme à la politique du Service ni à ma recommandation en la matière.

Dans sa réponse, le Commissaire n'a pas fait d'observations significatives ni démontré qu'il avait examiné en profondeur l'une ou l'autre des questions soulevées. Après de nouveaux échanges à ce sujet avec le bureau du Commissaire, le Commissaire adjoint à la haute direction s'est prononcé, en mars de cette année, en ces termes :

[Traduction]

J'ai examiné cette affaire avec tous les intéressés. Il ne fait aucun doute que l'amende est lourde. Toutefois, le directeur de l'établissement a soigneusement étudié le cas avant de rendre sa décision. J'appuie sa décision et ne recommande pas la réouverture du dossier.

Nous laisserons de côté les questions concernant le bien-fondé de l'accusation et de la condamnation que le Service n'a pas encore tranchées. Quant à la décision, elle n'a pas été rendue par le directeur du pénitencier, mais par un gestionnaire d'unité. Par ailleurs, le directeur pouvait difficilement étudier soigneusement le cas puisque le Service a négligé de conserver un compte rendu de l'audience disciplinaire. En ce qui concerne l'examen de l'affaire «avec tous les intéressés», pour autant que je sache, le détenu n'a jamais été consulté dans le cadre dudit examen.

J'estime que le Service correctionnel n'a pas porté une attention objective et raisonnable aux questions soulevées, soit le bien-fondé de l'accusation, la sévérité de la peine imposée et le non-respect de sa politique en matière de comptes rendus des audiences portant sur des infractions mineures. Ma recommandation en faveur de l'annulation de la condamnation et du remboursement des vingt-cinq dollars d'amende au plaignant a été rejetée.

Il suffit de se rendre dans un certain nombre de pénitenciers fédéraux pour y voir que la politique sur le port de l'insigne d'identité n'est pas uniformément appliquée. Je recommande donc au Commissaire de donner une directive sur cette question pour que tous soient tenus d'appliquer cette politique.

d) 1995-1996 - Situation actuelle

J'apprends que le Commissaire a de nouveau examiné la question du port de l'insigne d'identité lors d'une réunion du Comité de direction du Service en janvier 1996. C'est aux directeurs de pénitencier et aux sous-commissaires régionaux qu'il incombe de s'assurer que cette politique est respectée.

Du point de vue de la politique du Service, je considère que l'affaire est classée.

14. DÉCISIONS RENDUES PAR LES TRIBUNAUX DISCIPLINAIRES

a) 1992-1993

Au cours de l'année, un détenu nous a contactés au sujet d'une décision et d'une amende sanctionnant un manquement mineur à la discipline. Le détenu avait été accusé de «dommages causés volontairement ou par négligence aux biens de Sa Majesté ou aux biens d'autrui». Cette accusation résultait d'un incident au cours duquel le plaignant, après avoir reçu copie de son rapport d'évaluation psychologique pour qu'il en prenne connaissance et le signe, avait consigné dans ce rapport ses objections concernant les «inexactitudes» et les «erreurs» qu'il y avait relevées. Le tribunal l'a condamné pour manquement mineur à la discipline à une amende de vingt-cinq dollars. Le plaignant nous a affirmé que, lors de l'audience, il avait tenté d'expliquer son geste, mais que le président du tribunal avait refusé de l'entendre.

Dans le cadre de notre enquête sur cette affaire, nous avons demandé copie du compte rendu de l'audience du tribunal disciplinaire. On nous a informés que l'établissement ne tenait pas de registre de telles audiences. Je crois devoir signaler la chose aujourd'hui parce qu'en janvier 1990, le Service a donné suite à une recommandation que nous avions formulée en 1988 en émettant une instruction provisoire pour que les renseignements de base sur les audiences portant sur des infractions mineures soient consignés, électroniquement ou par tout autre moyen, et conservés pendant deux ans. Le Service a modifié officiellement sa politique en publiant une directive du Commissaire révisée en août 1990. L'infraction mentionnée plus haut a été commise à l'automne de 1991.

Je terminais mon rapport annuel de 1990-1991 sur cette question en disant :

Ainsi que je le signalais l'an dernier, il était assez évident qu'entre la publication de l'instruction provisoire et celle de la Directive révisée, on s'était fort peu soucié d'informer les établissements des modifications apportées à la politique. Les enquêtes que nous avons menées pendant l'année à l'étude au sujet de plaintes relatives à des décisions rendues dans des cas de manquement mineur à la discipline nous ont permis de constater que si les établissements connaissent à n'en pas douter la nouvelle politique, il reste que la qualité et le contenu des registres varient énormément d'un endroit à l'autre. Ce manque d'uniformité ne facilite certes pas les enquêtes menées à ce sujet soit dans le cadre de la procédure de règlement des griefs administrée par le Service, soit par notre Bureau. Par conséquent, je recommande que l'examen des opérations régionales comprenne une analyse des comptes rendus d'audiences portant sur des infractions mineures.

Pour autant que je sache, l'examen des opérations régionales sur ce point se fait toujours attendre.

Comme la question de l'incapacité mentale et de la tutelle des adultes est du ressort des provinces et qu'elle est régie par des lois provinciales complexes et très diverses, il n'existe pas de façon simple d'assurer une approche cohérente au sein du SCC. Il n'y a pas de façon uniforme d'aborder la santé mentale au Canada, malgré l'existence d'un projet de Loi uniforme sur la santé mentale.

Parmi les préoccupations soulevées, on peut toutefois penser notamment aux délinquants qui, tout en étant capables au sens de la loi, ne sont pas à même de se débrouiller dans la vie quotidienne. Pour ces délinquants, le SCC applique un plan à long terme, qui relève de sa stratégie en matière de santé mentale. Dans le cadre de son Plan opérationnel intégré, le Service prévoit de construire ou d'aménager jusqu'à 6 % de ses cellules pour les délinquants qui souffrent de troubles mentaux. Ces unités ont principalement pour objet d'assurer les soins et l'aide dont il est question dans le rapport de l'Enquêteur correctionnel.

Il y a récemment eu échange de lettres entre le Bureau et le Service correctionnel du Canada afin de préciser les points sur lesquels portera encore la consultation, et nous comptons sur une approche coopérative pour le traitement de cette question difficile mais importante.

d) 1995-1996 - Situation actuelle

On me dit que le Service a fait faire un certain nombre d'examen internes sur cette question. J'ai communiqué avec le conseiller du Service en matière de services de santé pour m'assurer que le Bureau était tenu au courant des mesures prises par le Service. C'est avec plaisir que je collaborerai avec le Service afin de donner suite aux préoccupations rattachées à cette question.

13. PORT DE L'INSIGNE D'IDENTITÉ

a) 1992-1993

La question du port de l'insigne d'identité, qui était au coeur de l'enquête que nous avons effectuée en 1984 au pénitencier Archambault, n'a jamais été complètement résolue. Je faisais observer dans mon rapport de 1988-1989 que bien des membres du personnel négligent ou refusent de porter leur insigne d'identité quand ils sont de service.

En avril 1989, j'ai écrit au Commissaire qu'il était aujourd'hui inadmissible que le public ne puisse savoir le nom des fonctionnaires à qui il a affaire, surtout quand il s'agit d'agents de la paix. On m'a informé par la suite que le Service avait examiné la question et décidé que le personnel qui ne portait pas d'insigne d'identité devrait le faire quand le nouvel uniforme serait adopté, soit entre juin et octobre 1992. J'ai indiqué dans mon rapport annuel de 1990-1991 qu'il n'était pas «raisonnable de retarder d'encore dix-huit mois la mise en application d'une décision de principe prise pour régler un problème soulevé pour la première fois au début de 1989».

J'apprends aujourd'hui que les nouveaux uniformes doivent être distribués le 1^{er} juillet 1993 et que les membres du Comité de direction ont confirmé que, dès la remise des uniformes, tous les employés (en uniforme ou en civil) des établissements seront tenus de porter l'insigne d'identité. Il aura donc fallu, non plus dix-huit mois, mais trente-deux mois pour régler une question soulevée au début de 1989.

b) 1993 - 1994

Le Comité de direction du Service a décidé en mai 1993 que, à compter du 1^{er} juillet suivant, tous les employés (en uniforme ou en civil) des établissements seraient tenus de porter l'insigne d'identité. Cette question devrait donc être réglée.

<p>a) les mesures prises pour juger de la capacité d'un détenu de gérer ses propres affaires lorsque le personnel signale l'existence probable d'un problème à cet égard;</p> <p>b) les activités auxquel­les s'applique la notion d'incapacité mentale décelée chez un détenu (gestion des finances personnelles, projet de sortie, etc.);</p> <p>c) les mesures prises par le Service afin de placer un détenu sous curatelle ou tutelle, en vertu d'une loi provinciale ou autre, lorsque le Service estime que celui-ci souffre d'incapacité mentale;</p> <p>d) les procédures mises en oeuvre lorsque des personnes extérieures au Service informent le personnel qu'elles soupçonnent un détenu de souffrir d'incapacité mentale.</p>	<p>Nous avons ultérieurement abordé la question au cours de réunions avec le personnel du Service correctionnel en janvier et mars 1992; le Service a entrepris d'examiner les points soulevés dans la lettre que nous lui avions fait parvenir.</p> <p>J'apprends aujourd'hui qu'à compter de mars 1993, le Service entamera des discussions avec le bureau de l'Enquêteur correctionnel afin de mieux comprendre la nature nos préoccupations concernant cette question, d'évaluer l'ampleur du problème et de déterminer les mesures que le Service pourrait adopter pour renforcer le processus actuel, en plus des pratiques habituelles favorisant la bonne gestion des cas. Je suis impatient d'entamer de telles discussions.</p> <p>b) 1993 - 1994</p> <p>On m'a fait savoir en décembre 1993, le Service n'ayant pas respecté entre-temps sa décision de mars 1993 d'avoir des discussions avec le Bureau, que « [traduction] la procédure en ce qui concerne l'incapacité mentale continue d'être du ressort des provinces et varie sensiblement selon la province en cause. Le SCC n'est pas en mesure d'envisager une politique nationale tant qu'une Loi uniforme sur la santé mentale n'aura pas été adoptée, ce qui ne devrait pas se produire dans un proche avenir ».</p> <p>Je ne suis pas d'accord avec le Service sur ce sujet. J'aurais pensé que l'absence de directive nationale dans ce domaine, l'ampleur des problèmes de santé mentale que l'on constate dans les pénitenciers fédéraux et le fait que l'uniformisation qu'apporterait une loi nationale n'est pas près de se produire sont des raisons suffisantes pour que le Service élabore une politique nationale.</p> <p>c) 1994 - 1995</p> <p>Pendant l'année qui vient de s'écouler, des progrès considérables ont été accomplis pour ce qui est à la fois des précisions apportées au sujet des préoccupations exprimées sur cette question et de la détermination d'une orientation en vue d'y répondre. Dans sa réponse de mars 1995, le Commissaire a écrit ce qui suit :</p> <p>[Traduction]</p> <p>La question de l'incapacité et de ses répercussions a été mentionnée parmi les préoccupations permanentes par l'Enquêteur correctionnel. La raison en est, du moins en partie, que l'on y voit une préoccupation d'ordre général, qui peut englober plusieurs problèmes. À cette question se rapporte la définition légale de l'incapacité, telle qu'elle est définie dans les lois provinciales, et, d'une manière générale, le grand nombre de délinquants qui, s'ils sont capables au sens de la loi, ne sont pas toujours en mesure de faire face aux difficultés de la vie quotidienne.</p>
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Ce sur quoi l'on peut s'interroger ici, longtemps après les événements, c'est la minutie du travail de la Commission d'enquête du Service, laquelle a conclu que le détenu n'avait « subi aucune blessure », et l'objectivité du Service lorsqu'on lui a présenté des informations allant dans le sens contraire.

La photographie dont il est question dans la réponse du Commissaire provenait du dossier gardé sur le détenu à l'établissement, de même que l'information d'ordre médical fournie au Commissaire et qui montrait clairement que le détenu avait subi des blessures probablement attribuables à des voies de fait. Depuis deux ans et demi, plutôt que de traiter directement de cette information, le Service a tourné autour du pot. Pour moi, depuis un certain temps, cela ne sert plus à rien d'en discuter - sur cette question, la Commission d'enquête avait tort et le Service n'a vraiment cherché, dans le meilleur des cas, qu'à gagner du temps.

Globalement, je dois de nouveau dire que notre Bureau n'a jamais eu l'intention d'accuser qui que ce soit ni de déterminer des responsabilités, mais il voulait faire examiner avec minutie et objectivité par le Service les questions soulevées par sa propre Commission d'enquête. Ce qu'il n'a manifestement jamais fait.

d) 1995-1996 - Situation actuelle

Pour ce qui est des préoccupations que cet incident de 1991 a soulevées, j'attends toujours que le Service aille jusqu'au bout de ses initiatives dans certains domaines; dans d'autres domaines, je persiste à croire que des mesures doivent être prises pour donner suite aux préoccupations qui ont été exprimées.

Pour ce qui est de la politique du Service en matière de prise d'otages et de l'utilisation de drogues comme outil de négociation, on me dit qu'on réexamine la question.

Pour ce qui est du rôle du négociateur de l'extérieur, étant donné les lacunes de l'information fournie sur cette question au fil des ans, je demeure d'avis qu'il faut clarifier la politique.

Pour ce qui est de l'étude sur la violence dans les établissements, je demeure d'avis qu'il faut réexaminer complètement l'intégration des détenus en isolement protecteur et l'effet des politiques du Service régissant ce processus. Je pense que l'augmentation du nombre d'agressions commises par les détenus confirme ce besoin.

Pour ce qui est des lignes directrices en matière de sécurité préventive, on me dit que celles-ci devraient être publiées bientôt.

Pour ce qui est de l'agression dont aurait été victime le preneur d'otages, comme je l'ai indiqué dans mes rapports antérieurs, ce qui faisait problème ici était la méticulosité de la Commission d'enquête du Service, commission qui avait conclu que le preneur d'otages n'avait subi aucune blessure; on s'interroge aussi sur l'objectivité du Service lorsqu'on lui a présenté des informations dans le sens contraire. Pour ce qui est de cet incident, le dossier est clos.

12. INCAPACITÉ MENTALE

a) 1992-1993

J'ai indiqué dans mon rapport de l'an dernier que la question de l'opportunité de la décision de placer sous curatelle ou sous tutelle, en vertu de diverses lois provinciales pertinentes, les détenus considérés comme mentalement incapables a été posée au Service en août 1991. En octobre 1991, nous avons écrit au bureau du Commissaire afin d'obtenir de l'information, notamment sur les points suivants :

Toute cette question et la façon dont le Service l'a traitée en disent plus sur l'objectivité et le caractère minutieux de son processus d'enquête que sur l'incident survenu au pénitencier de la Saskatchewan il y a quatre ans.

Au risque de me répéter et dans l'espoir que l'on accorde une certaine attention à des questions qui continuent d'avoir de l'importance pour les opérations du Service correctionnel du Canada, je présente les observations qui suivent sur les quatre sujets de préoccupation soulevés à l'origine.

Politique sur les prises d'otages

Ce qui constitue l'élément central de cette question, ce sont la clarté et la connaissance des directives en place à l'époque sur l'utilisation de la drogue comme élément de négociation et le rôle des négociateurs de l'extérieur. S'il existe dans ce domaine une politique claire et généralement bien comprise, le Service pourrait peut-être énoncer cette politique et établir le lien entre celle-ci et ce qui est arrivé au pénitencier de la Saskatchewan.

Examen de la violence dans les établissements

Il s'agissait ici de l'intégration des détenus en isolation protecteur à la population carcérale générale. Au milieu de l'année 1992, en réponse aux préoccupations soulevées par la propre enquête interne du Service, le Commissaire avait « décidé de lancer une étude nationale sur l'intégration des détenus en isolation protecteur et sur les répercussions des politiques régissant ce processus ». Ainsi que je l'ai indiqué dans mon rapport annuel de 1992-1993, cet examen national avait été abandonné sans préavis ni explication au profit d'une « étude de fond sur la violence chez les détenus ». J'ajoutais, la même année, que cette « étude de fond » était centrée uniquement sur trois établissements dont un seul faisait des efforts pour intégrer les détenus en isolation protecteur. J'ai conclu en disant que les résultats de cette étude, qui ont été communiqués à un très petit nombre de personnes au sein du SCC, ne touchaient que de loin les préoccupations associées au processus d'intégration et ne correspondaient pas vraiment à l'engagement pris par le Service d'établir une base de données précises pour la gestion du processus d'intégration.

Comme un certain nombre de régions adoptent, en réponse au surpeuplement, une politique d'intégration des détenus en isolation protecteur à la population carcérale générale, je pense que le Service ferait bien de revenir à ce qu'il avait commencé de faire dans ce domaine en 1992.

Lignes directrices en matière de sécurité préventive

Cette question portait à l'origine sur le fait que ceux qui étaient responsables sur place de la gestion de l'incident ne disposaient pas de renseignements pertinents relevant de la sécurité préventive sur l'un des auteurs de la prise d'otages. Depuis, beaucoup d'autres sujets de préoccupation ont été soulevés en ce qui concerne la coordination, la vérification, la communication et la correction des renseignements de sécurité préventive ainsi que le rôle des agents de sécurité préventive. Dans sa réponse de mars 1995, le Commissaire a fixé le 30 avril 1995 comme « date limite » pour la production de normes en matière de sécurité préventive. Nous verrons si ces normes ont rapport à la question posée ici.

Allégation de voies de fait sur l'auteur de la prise d'otages

Dans la réponse qu'il a donnée en mars 1995, le Commissaire déclare que le Service a examiné une vidéo de télévision qui montre le détenu peu après l'incident, une photographie présentée par M. Stewart et des observations faites par le négociateur, et qu'il a conclu que le détenu en question n'avait pas fait l'objet de voies de fait à la suite de la prise d'otages.

de la prise d'otages qui avait déjà participé à un incident de ce genre n'avaient pas été communiqués au moment opportun aux autorités qui en avaient le plus besoin. Pour remédier à ce problème, le Service a ordonné que le rôle des services de sécurité préventive soit réexaminé. J'attends toujours les résultats de cet examen ainsi que des indications claires de la part du Service sur la façon dont il compte s'assurer que les renseignements pertinents sont mis à la disposition de ceux qui en ont besoin dans les meilleurs délais.

Le noeud du problème, deux ans après l'incident, c'est que rien n'indique que le Service ait pris des mesures correctives dignes de ce nom sur l'une ou l'autre des questions soulevées.

Au cours de l'année qui vient de s'écouler, par suite de nos contacts avec l'auteur de la prise d'otages qui a survécu à l'incident, deux nouvelles questions ont fait surface. La première se rapporte au fait que ce détenu affirme avoir été brutalisé par le personnel du Service après l'incident, et la seconde concerne le conflit d'intérêts possible résultant du fait que le négociateur principal chargé du règlement de l'incident est devenu par la suite le défenseur de l'auteur de la prise d'otages. Ces questions ont été portées à l'attention des autorités compétentes au sein du Service correctionnel du Canada, et j'attends leurs conclusions.

b) 1993 - 1994

Trois années ont passé depuis cet incident tragique. Au cours de l'année, le Service n'a pas vraiment commenté les questions que soulèvent l'incident même et l'enquête qu'il a menée.

Je maintiens mes observations de l'an dernier au sujet de la valeur de l'enquête et des mesures prises par le Service dans les deux années qui ont suivi cette enquête.

N'ayant eu connaissance d'aucun fait nouveau dans cette affaire, je n'en ai pas moins gardé un certain nombre de préoccupations au sujet de ce qui suit :

a) la clarté et la connaissance des directives du Service sur l'utilisation de la drogue comme élément de négociation et le rôle des négociateurs de l'extérieur;

b) l'absence d'un examen détaillé des questions liées à l'intégration des détenus en isolement protecteur et à la violence dans les établissements;

c) la publication retardée des normes et des lignes directrices en matière de sécurité préventive;

d) le fait que l'enquête du Service ait conclu que l'auteur survivant de la prise d'otages n'avait subi aucune blessure, alors qu'un simple examen de son dossier médical aurait montré le contraire.

D'une manière à la fois plus générale et plus personnelle, je suis préoccupé par la façon dont le Service a réagi au sujet de cette affaire. Le Bureau n'a jamais eu l'intention d'accuser qui que ce soit ni de déterminer des responsabilités. Nous n'étions pas sur place, et je n'en doute pas, les décisions et les mesures prises par ceux qui étaient chargés de la gestion de l'incident ont été prises de bonne foi. Notre intention était d'amener le Service à examiner en détail et objectivement les questions soulevées par sa propre commission d'enquête. Ce qu'il n'a jamais fait.

c) 1994 - 1995

Au sujet de cette question, le Commissaire a déclaré en mars 1995 : « Le Service a informé le Ministre, le 3 octobre 1994, que, à son avis, la discussion est close. »

Le 10 juin 1992, le Service correctionnel du Canada nous a fait parvenir sa réponse en nous fournissant les renseignements suivants sur les questions soulevées :

a) L'utilisation de la drogue comme élément de négociation - même si le Service persistait à contredire les conclusions de sa propre commission d'enquête, il indiquait que le Commissaire avait décidé de prendre des mesures particulières pour remédier à ce problème et qu'il avait approuvé la conception et la mise en oeuvre d'un programme de formation sur la gestion des situations d'urgence, l'un des éléments clés de ce programme visant à fournir des éclaircissements sur la politique de non-compromis.

b) L'accessibilité aux dispositifs de surveillance audiovisuels - le programme de formation sur la gestion des situations d'urgence porte précisément sur les questions comparables à celles qui se sont posées lors de cet incident et comporte un volet important sur l'accessibilité et l'utilisation des dispositifs de surveillance, audiovisuels ou non.

c) La politique d'intégration des détenus en isolement protecteur à la population carcérale générale - tout en s'efforçant de minimiser l'importance de cette question, le Service a reconnu que le Commissaire partageait les préoccupations exprimées dans ce rapport, et qu'il avait décidé récemment de lancer une étude nationale sur l'intégration des détenus en isolement protecteur et sur les répercussions des politiques régissant ce processus. Selon le Service, les résultats de cet examen, qui devraient être prêts d'ici à janvier 1993, fourniront des éléments d'information plus précis sur les forces et les faiblesses des politiques actuelles, et permettront d'améliorer la gestion d'un tel processus.

d) L'accès aux renseignements concernant l'un des auteurs d'une prise d'otages qui avait déjà participé à incident semblable - en dépit des éléments de preuve avancés par sa propre commission d'enquête, le Service persistait à dire que les renseignements pertinents avaient été fournis en temps opportun. Loin de clarifier la situation, les commentaires qu'il ajoute soulèvent plutôt de nouvelles questions concernant la pertinence des renseignements fournis et leur caractère opportun.

Je suis revenu sur les engagements pris par le Service correctionnel et sur les nouvelles questions qu'il soulevait dans la lettre de juin 1992. On m'a informé que le programme de formation sur la gestion des situations d'urgence qui devait clarifier les questions associées à « l'utilisation de la drogue comme élément de négociation » et « l'accessibilité des dispositifs de surveillance audiovisuels » n'était pas encore prêt. L'examen lancé à l'échelle nationale par le Commissaire sur les répercussions des politiques du Service régissant « l'intégration des détenus en isolement protecteur » avait été abandonné au profit d'une « étude de fond sur la violence chez les détenus ». Cette « étude de fond » est centrée uniquement sur trois établissements dont un seul fait des efforts pour intégrer les détenus en isolement protecteur. Les résultats de cette étude, qui ont été communiqués à un très petit nombre de personnes au sein du Service correctionnel, n'abordent que de loin les préoccupations associées au processus d'intégration. Quant au contenu du document, il démontre, à mon avis, que le Service correctionnel n'a pas rempli l'engagement pris en juin 1992 d'effectuer une étude nationale en vue d'obtenir des renseignements plus précis concernant les forces et les faiblesses de ses politiques et d'améliorer la gestion du processus. En ce qui a trait à la question de « l'accès aux renseignements concernant les prises d'otages antérieures », le Service a reconnu que le noeud du problème résidait dans le fait que les renseignements concernant l'un des auteurs

L'établissement a demandé à l'administration centrale des renseignements sur la façon dont s'était déroulée la prise d'otages à laquelle le détenu McDonald avait déjà participé. Le Commissaire, dans sa lettre, a mentionné que l'établissement ne disposait pas de renseignements détaillés sur les mesures prises par les gestionnaires de situations d'urgence pour dénouer la crise, sur le comportement de McDonald lors de l'incident, sur les revendications formulées et sur le déroulement de l'incident. Il ajoutait que de tels renseignements n'étaient consignés que dans les rapports d'enquêtes menées sur des incidents de ce genre.

Le fait est que ces renseignements ne se trouvent fort probablement que dans les rapports d'enquêtes menées à la suite de ce genre d'incident, mais cela ne répond pas à la question de savoir pourquoi ceux qui peuvent en avoir besoin n'y ont pas accès.

Nous avons examiné les deux séries de documents télécopiés au pénitencier de la Saskatchewan lors de la prise d'otages en réponse à la demande de renseignements de la direction de l'établissement concernant le déroulement de l'incident auquel avait déjà participé McDonald. Voici nos observations :

a) la première série de documents ne contient pas de renseignements pertinents concernant la prise d'otages survenue à Dorchester en avril 1979, à l'exception de cette phrase tirée d'un rapport rédigé à Edmonton en mai 1983 : [Traduction] «Ce détenu a participé à une prise d'otages au pénitencier de Dorchester au cours de laquelle des blessures ont été infligées aux otages (membres du personnel)»;

b) la seconde série de documents fournit des renseignements sur un incident qui s'est produit en mai 1980 à l'établissement Millhaven, dans lequel était impliqué un certain H.D. MacDonald, et non G.J. McDonald.

Il semble que non seulement l'administration centrale n'ait pas fourni les renseignements demandés, mais qu'elle ait également divulgué des informations erronées susceptibles de nuire à l'un des participants.

Dans sa lettre, le Commissaire indique que les renseignements dont disposait effectivement le pénitencier sur le détenu McDonald confirmaient qu'il avait été impliqué dans des prises d'otages antérieures au pénitencier de Dorchester (en avril 1979) et à l'établissement Millhaven (avril 1980). Auriez-vous l'obligeance de me fournir des renseignements précis concernant l'incident survenu à Millhaven en avril 1980? Pourriez-vous également m'envoyer copie du rapport d'enquête sur l'incident du pénitencier de Dorchester en avril 1979?

Il est recommandé que des mesures soient prises immédiatement pour que les gestionnaires de situations d'urgence aient accès aux renseignements détaillés dont ils peuvent avoir besoin sur des prises d'otages antérieures, y compris aux rapports d'enquêtes sur ces incidents.

Le rapport de la commission d'enquête n'aborde pas tous les aspects du problème et est peu concluant.

Outre les renseignements précis demandés sur les points précis, j'ai invité le Service à ajouter des commentaires complémentaires qui seront incorporés dans notre rapport final sur cette question.

Le Commissaire ajoute que la remise de médicaments et l'opportunité d'une telle décision dans le cas de cet incident font l'objet d'un examen, et que des directives plus claires seront fournies aux sous-commissaires et aux directeurs d'établissement à ce sujet. Quand comptez-vous fournir ces directives ?

Il est recommandé que cette question de principe soit tranchée dans les plus brefs délais, y compris en ce qui a trait au rôle du médecin amené à prescrire des médicaments au cours d'une prise d'otages.

La deuxième question portait sur l'accessibilité des dispositifs de surveillance audiovisuels. M. Stewart se demandait pourquoi la commission d'enquête concluait que l'on aurait pu faire un meilleur usage de l'aide technique extérieure, mais ne formulait aucune recommandation visant à assurer le recours immédiat à une telle assistance à l'avenir.

En réponse à cette question, le Commissaire a indiqué que l'on avait rarement besoin de tels dispositifs lors de ce genre d'incident et que, par conséquent, la commission d'enquête estimait que les directeurs d'établissement tiraient leurs propres conclusions et prendraient les mesures correctives nécessaires. Je ne comprends pas la logique de cette conclusion.

Il me semble que chaque établissement aurait tout intérêt à prendre les mesures nécessaires pour s'assurer l'accès immédiat à l'assistance technique extérieure requise en cas de besoin. À mon sens, il aurait été plus judicieux de formuler une recommandation à cet effet que de laisser chaque directeur tirer ses propres conclusions.

La troisième question concernait les difficultés que pose l'intégration des détenus en Saskatchewan, compte tenu du nombre croissant de détenus endurcis à sécurité maximale isolément protecteur à la population carcérale générale au pénitencier de la

Dans son rapport, la commission d'enquête indique que les efforts d'intégration donnent de bons résultats, mais que cela ne signifie pas pour autant qu'ils ne posent aucun problème. Elle note également l'insatisfaction exprimée tant par le personnel que par les détenus à l'égard du nombre croissant de « perturbés » admis à l'établissement. M. Stewart a demandé pourquoi, compte tenu de ses observations, la commission ne formulait aucune remarque concluant sur l'utilité de poursuivre la politique d'intégration actuelle du Service. Le Commissaire a répondu que la commission d'enquête estimait que l'évaluation de la politique du Service dans ce domaine ne relevait pas de sa compétence.

Il n'était pas suggéré que la commission d'enquête évalue la politique d'intégration du Service, bien que l'ordre de convocation et les attributions de la commission ne semblent pas exclure une telle initiative. On laissait plutôt entendre, compte tenu des observations et des commentaires de la commission, qu'un examen de cette politique était nécessaire pour qu'il soit possible de trancher une question qui préoccupait manifestement à la fois le personnel et les détenus.

La quatrième question concernait l'accès aux renseignements relatifs à la prise d'otages à laquelle le détenu McDonald avait déjà participé au pénitencier de Dorchester.

Lorsque le Service a révisé sa politique en 1990, il a cessé de tenir compte du coût dans la décision d'accorder une permission de sortir avec surveillance pour des raisons humaines. En 1993, le Commissaire a publié des lignes directrices afin d'aider les directeurs à prendre ces décisions, décisions que j'ai qualifiées, à ce moment-là, de claires et raisonnablement conformes à la politique du Service dans ce domaine.

Nous avons été informés en décembre 1995 que le Sous-commissaire principal avait élaboré des changements à cette politique, changements qui seraient soumis à l'approbation du Comité de direction du Service en 1996. Je n'ai toujours pas été informé des détails de ces changements proposés.

11. PRISE D'OTAGES - PÉNITENCIER DE LA SASKATCHEWAN

a) 1992-1993

Cet incident, qui s'est produit le 25 mars 1991, a entraîné la mort de deux détenus. Après avoir examiné le rapport publié par la commission d'enquête du Service correctionnel concernant cet incident, j'ai écrit au Commissaire le 7 août 1991 afin de lui demander un supplément d'information sur quatre points du rapport d'enquête.

Comme je l'ai indiqué l'an dernier, mes observations portaient sur les points suivants :

- a) la décision de faire de la drogue un élément de négociation;
- b) l'accessibilité aux dispositifs de surveillance audiovisuels;
- c) la politique d'intégration des détenus en isolement protecteur à la population carcérale générale;
- d) l'accès aux renseignements concernant l'un des auteurs de la prise d'otages qui avait déjà participé à un incident semblable dans un autre établissement.

Je terminais mon rapport de l'an dernier sur cette question en disant que je jugeais «insatisfaisante» la réponse du Commissaire sur ces points et que nous avions écrit une nouvelle fois à l'administration centrale le 28 avril 1992 pour faire part au Commissaire de notre insatisfaction à l'égard de la réponse fournie. Voici le contenu de cette lettre du 28 avril 1992 :

[Traduction]

La présente fait suite à notre rencontre 7 du 12 mars 1992 et se rapporte aux conclusions de la commission d'enquête sur la prise d'otages au pénitencier de la Saskatchewan ainsi qu'à nos échanges de correspondance antérieurs.

Dans sa lettre du 7 août 1991, ci-jointe, M. Stewart demandait des éléments d'information sur quatre questions générales traitées dans le rapport de la commission d'enquête.

La première question portait sur la décision prise par la direction de faire de la drogue un élément de négociation, et le moment choisi pour une telle décision, ainsi que sur ses répercussions, à la lumière de la conclusion de la commission d'enquête, concernant la ligne de conduite adoptée de longue date par le Service selon laquelle «la remise de drogues aux détenus pour faciliter les négociations est interdite».

Du fait de sa nature même, la prise d'otages dans un pénitencier constitue «une menace réelle de mort ou voies de fait graves». Dans cette perspective, nous ne comprenons pas la réserve faite à l'égard de cette politique à la page un de la lettre du Commissaire de novembre 1991.

Les permissions de sortir avec surveillance pour raisons humaines doivent être autorisées (...) à condition qu'aucune information importante, en matière de sécurité ou de gestion de cas, n'y soit défavorable.

Dans mon rapport annuel de 1990-1991, je reconnaissais que cette politique était un pas dans la bonne direction et soulignais qu'il était essentiel que le Service prenne des mesures propres à garantir qu'elle serait à la fois comprise et mise en oeuvre dans les établissements, car les décisions en cette matière doivent être prises dans des délais opportuns. Dans mon rapport de l'an dernier, j'ajoutais que les erreurs commises ne peuvent être réparées - il est en effet impossible de reporter à une date ultérieure un décès ou des obsèques - et que nous continuons à recevoir des plaintes de détenus à qui l'on avait refusé une permission de sortir pour des raisons non conformes à la politique.

Encore cette année, j'ai reçu des plaintes de détenus à qui l'on avait refusé une permission de sortir pour des raisons non conformes à la politique. J'ai examiné la question, ainsi que chacune de ces plaintes, avec le nouveau Commissaire et je recommande que celui-ci fournisse, dans une note de service adressée à tous les directeurs d'établissement, des directives plus claires concernant l'application de cette politique, et que cette note de service soit incorporée dans le guide sur les droits et privilèges des détenus qui devrait être publié cet été.

b) 1993 - 1994

Le Commissaire, préoccupé par cette situation, a pris des mesures pour préciser la politique du Service dans ce domaine en donnant aux directeurs d'établissement des lignes directrices sur l'autorisation des permissions de sortir avec surveillance pour des raisons humaines. Les lignes directrices sont claires et correspondent dans une mesure raisonnable à la politique du Service. Nous continuons de recevoir des plaintes au sujet de décisions non conformes à la politique, mais j'estime cette situation inévitable et considère que la question est réglée. Si nous jugeons, après enquête, qu'une décision n'est pas conforme à la politique, j'en saisisserai directement le Commissaire, étant donné l'importance de ce genre de décision pour le détenu et les membres de sa famille ainsi que la nécessité de rendre rapidement une décision.

c) 1994 - 1995

L'an dernier, j'ai reconnu que le Commissaire avait pris des mesures dans ce domaine en donnant des lignes directrices qui renforçaient la politique du Service sur les permissions de sortir avec surveillance pour des raisons humaines. J'ajoutais que les lignes directrices étaient « claires et correspondaient dans une mesure raisonnable à la politique du Service », mais j'estimais inévitables les décisions non conformes à la politique et aux lignes directrices.

Je disais, pour conclure, que je saisisserais directement le Commissaire des décisions non conformes à la politique du Service. Pendant l'année qui s'est écoulée, un certain nombre de permissions de sortir sous surveillance pour des raisons humaines ont été présentées au Commissaire pour examen. Malheureusement, les résultats de ces examens étaient généralement très lents à venir et témoignaient d'une attitude défensive et circonspecte.

Dans mon rapport annuel, l'an dernier, alléguant l'entente qui existait sur le fait qu'une somme de 1,60 \$ par jour représente une allocation insuffisante, j'ai précisément recommandé ce qui suit :

Qu'une indemnité quotidienne minimale suffisante soit déterminée et que tous les détenus, sans distinction, reçoivent cette allocation quotidienne de base.

Il n'y a eu, de la part du Service, ni mesure ni commentaire relativement à cette recommandation.

Il semble même y avoir un recul de sa part par rapport à son engagement antérieur d'examiner le cas des détenus incapables de travailler pour des raisons indépendantes de leur volonté afin de porter leur taux de rémunération au-dessus du niveau de 1,60 \$ par jour.

Pour que le Service applique une politique de rémunération coordonnée et raisonnable, il doit examiner la question des détenus qui ne travaillent pas en même temps que la question de la rémunération des détenus.

d) 1995-1996 - Situation actuelle

Nous avons traité à la question numéro 2, Rémunération des détenus, de la majorité des préoccupations liées à la rémunération. Je rappelle ici ma recommandation de mars 1994 concernant l'établissement d'une indemnité quotidienne minimale et suffisante pour tous les détenus. Le Service n'a donné aucune suite à cette recommandation, se contentant de m'informer en décembre 1995 qu'il n'envisageait toujours pas l'établissement d'une indemnité minimale.

Je pense qu'une indemnité minimale raisonnable pour tous les détenus, peu importe leur statut, permettrait de régler les difficultés liées à la rémunération des détenus. Je crois que la perspective d'une rémunération stimulerait la participation des détenus à l'emploi ou aux programmes, et que cela serait beaucoup plus avantageux que de maintenir le taux de rémunération de la population carcérale à zéro ou 1,60 \$ par jour. Je propose, étant donné que le Service se dirige vers un modèle de participation aux programmes rémunérée, car le maintien d'une rémunération dérisoirement faible pour ceux qui ne participent pas ne fait que miner le principe du consentement informé concernant la décision de participer au traitement ou non.

Je propose que le Service entreprenne d'étudier cette question.

10. CRITÈRES RÉGISSANT LES PERMISSIONS DE SORTIR AVEC SURVEILLANCE POUR DES RAISONS HUMAINES

a) 1992-1993

Comme je l'ai rappelé l'an dernier, nous avons signalé une première fois ce problème au Commissaire du Service correctionnel en avril 1988 parce que nous avions reçu à l'époque plusieurs plaintes provenant de détenus à qui l'on avait refusé une permission de sortir avec surveillance pour assister aux obsèques d'un membre de leur famille. Les résultats de nos enquêtes indiquaient clairement que les dépenses constituaient un important critère de décision - dans certains cas, il s'agissait du seul critère de décision - et que le Service avait demandé à l'occasion au détenu et à sa famille de supporter certaines dépenses.

Je terminais mon rapport annuel de 1988-1989 sur la question en disant qu'une telle pratique ne pouvait être raisonnablement justifiée, car elle créait des situations alimentant d'inévitables conflits d'intérêt et limitait l'accès à ce type de permissions de sortir en raison de critères fondés sur la distance à parcourir et la situation financière personnelle des intéressés. En janvier 1990, le Service a publié une nouvelle Directive dans laquelle les dépenses ne sont plus considérées comme un facteur de décision. En voici un extrait :

9. APPLICATION DE LA POLITIQUE DE RÉMUNÉRATION DES DÉTENU·ES AUX DÉTENU·ES SANS EMPLOI

a) 1992-1993

En mai 1991, le Service a rajusté sa politique de rémunération dans le but d'offrir une rémunération raisonnable aux détenus incapables de travailler pour des raisons indépendantes de leur volonté. La nouvelle politique précise que le directeur d'un établissement a le pouvoir de rajuster le taux de rémunération des détenus qui ne peuvent travailler en raison d'une maladie de longue durée ou à la suite d'un accident ou encore parce qu'il n'y a pas suffisamment de travail pour tous.

Comme je l'ai indiqué dans mon rapport annuel de l'an dernier, l'examen des plaintes que nous avons reçues à ce sujet a révélé non seulement que la politique n'était pas appliquée dans tous les établissements, mais encore que certains directeurs n'étaient même pas au courant des modifications apportées à cette politique.

En décembre 1992, l'administration centrale a clarifié cette question dans une note de service, et j'apprends par ailleurs qu'une directive du Commissaire révisée devrait être promulguée en avril 1993. À mon sens, le Service a trop tardé à voir à la mise en oeuvre de cette politique, compte tenu de la situation en matière de rémunération des détenus qui avait été dénoncée antérieurement.

b) 1993 - 1994

Le Service a répondu, en décembre 1993, en ces termes :

[Traduction]

On sait depuis longtemps qu'une somme de 1,60 \$ (par jour) représente une allocation insuffisante pour des détenus incapables de travailler pour des raisons indépendantes de leur volonté. On a demandé aux directeurs d'établir, conformément à la réglementation, si les cas et de se servir de leur pouvoir de rajuster, s'il y a lieu, le taux de rémunération. Il s'agit d'une mesure provisoire en attendant l'adoption de la directive n° 730, Affectation aux programmes et rémunération des détenus.

Le nombre de détenus qui ne travaillent pas continue de s'accroître, en partie à cause de l'augmentation de la population carcérale et de celle du nombre de détenus qui veulent bénéficier de l'isolement protecteur et se retrouvent en isolement pour une longue période. Le nombre de détenus qui reçoivent encore 1,60 \$ par jour ne semble pas avoir changé depuis que le Service nous a fait parvenir sa réponse.

L'examen que nous avons fait des plaintes relatives à la paye et à l'emploi, qui ont connu une hausse importante pendant l'année, montre clairement que les détenus qui reçoivent 1,60 \$ par jour ne font pas régulièrement l'objet d'un examen visant à accroître, s'il y a lieu, le taux de leur rémunération.

Les responsables d'une région ont appris au Bureau que leur budget salarial des détenus ne leur permet pas de faire passer les détenus à un niveau supérieur à celui de 1,60 \$ même si ces derniers sont incapables de travailler pour des raisons indépendantes de leur volonté.

On peut dire que, même si le Service affirme comprendre qu'une indemnité de 1,60 \$ par jour est insuffisante, la situation reste la même que celle que j'ai décrite il y a trois ans.

Je recommande sur ce point, et dans le cadre de la question générale de la rémunération, qu'une indemnité quotidienne minimale suffisante soit déterminée et que tous les détenus, sans distinction, reçoivent cette allocation quotidienne de base. Je recommande en outre, vu les retards excessifs dans ce domaine, que des mesures soient prises immédiatement.

- les contradictions en ce qui concerne les effets personnels autorisés, qui créent des situations où un détenu qui a acheté certains effets dans un établissement apprend, au moment de son transfèrement dans un autre établissement, qu'il n'y a pas droit.

Je terminais en disant : «J'ai été informé que la politique révisée et les lignes directrices nationales l'accompagnant devaient être approuvées en octobre 1991».

Je concluais mon rapport annuel de l'an dernier sur ce point en disant «Au moment de la rédaction du présent rapport (mai 1992), la politique promise se faisait toujours attendre». Elle n'était toujours pas rendue publique au moment de la rédaction du présent rapport (au 31 mars 1993). J'ai appris que le texte provisoire d'une directive du Commissaire serait prêt en mai 1993.

b) 1993 - 1994

Le Commissaire m'a fait savoir en août 1993 qu'une directive du Commissaire et des lignes directrices sur cette question seraient prêtes pour le mois d'octobre.

J'ai ensuite appris, en décembre 1993, que le Service avait demandé aux détenus, conformément à l'article 74 de la *Loi sur le système correctionnel et la mise en liberté sous condition*, de se prononcer sur la directive révisée. Ces observations avaient été reçues au début d'août 1993 et le texte définitif de la directive et des lignes directrices devait être transmis au Comité de direction pour approbation en janvier 1994.

À la fin de l'année visée par le présent rapport (31 mars 1994), ni directive ni lignes directrices n'avaient été rendues publiques, mais le bruit courait qu'une directive du Commissaire pourrait être publiée à la fin de l'été de 1994.

L'examen de cette politique par le Service a commencé au début de 1990.

c) 1994 - 1995

En mars 1995, le Commissaire a fait savoir que le texte définitif de sa politique et de ses lignes directrices sur les effets personnels des détenus lui avait été présenté pour signature. Bien que la politique et les lignes directrices révisées portent sur bon nombre des préoccupations initiales, il subsiste des difficultés liées aux contradictions en ce qui concerne les effets personnels autorisés, tout particulièrement en matière d'ordinateurs.

On m'a récemment fait savoir que le Service s'efforçait d'élaborer une politique sur l'accès par les détenus aux ordinateurs afin de rendre la pratique plus cohérente à l'échelle du pays. Depuis plus de deux ans, le Service examine la question des effets des ordinateurs et des ordinateurs du point de vue de la sécurité. J'espère qu'une décision finale, assurant à la fois un accès raisonnable et une pratique cohérente, sera prise dans un proche avenir.

d) 1995-1996 - Situation actuelle

On m'informe que le SCC travaille toujours à l'élaboration d'une politique dans ce domaine. Le moratoire sur l'achat de matériel et de logiciels pour les ordinateurs appartenant aux détenus demeure en vigueur.

Dans sa réponse, en mars 1995, au sujet du processus de transfèrement, le Commissaire fait observer que le SGD donne des informations permettant de suivre le processus de transfèrement des détenus, et notamment des informations sur des points comme le type de transfèrement (sollicite/non sollicite), la date de la demande, le motif, la décision, la date du transfèrement et le résultat des appels interjetés. La question qui se pose alors est la suivante : l'administration centrale dispose-t-elle de cette information, celle-ci est-elle mise en corrélation et analysée, et que révèle-t-elle ?

Comme pour la préparation des cas, l'accès aux programmes, les griefs, la double occupation des cellules et les permissions de sortir, le Service doit, pour répondre aux préoccupations liées à ces questions, indiquer clairement et précisément ce qu'il a l'intention de faire, de quelle façon il entend le faire et à qui il incombe d'obtenir des résultats.

d) 1995-1996 - Situation actuelle

Même si l'on n'a pas encore apporté de solution aux préoccupations exprimées en 1991 au sujet du processus de transfèrement du Service, j'apprends que ce domaine est l'un des deux où l'on a mis au point des indicateurs de rendement. Ces indicateurs devraient être connus en juin 1996.

De même, le Service affirme que les régions vont établir des mécanismes d'ici avril 1996 pour contrôler le processus de transfèrement. Ces mécanismes permettront au Service de s'assurer que le processus de transfèrement est conforme à sa politique et à ses pratiques, et ils devraient tenir compte de tous les aspects comme le respect des délais, le processus décisionnel et le processus d'appel. À mon avis, même si l'on est mieux placé au niveau régional pour contrôler les transfèrements, il serait bon à court terme que l'administration centrale fasse une évaluation trimestrielle des résultats du processus de contrôle pour s'assurer qu'il est uniforme, et ainsi, le Service serait en mesure d'imprimer une nouvelle orientation à sa politique au besoin. Je propose en outre qu'on incorpore dans ce processus de contrôle le processus de placement pénitentiaire.

C'est avec le plus grand intérêt que je prendrai connaissance des indicateurs de rendement et des résultats du processus de contrôle des transfèrements.

8. GESTION DES EFFETS PERSONNELS DES DÉTENUS

a) 1992-1993

Au début de 1990, le Service a entrepris de réviser sa politique relative à la gestion des effets personnels des détenus en vue d'établir des lignes directrices nationales en la matière.

En janvier 1991, en réponse aux questions que nous avions soulevées sur ce point, le Service nous a fait parvenir une copie du texte provisoire de sa politique et de ses lignes directrices sur lequel le personnel des régions était invité à se prononcer. Nous avons fait connaître notre point de vue au personnel de l'administration centrale à l'occasion d'une réunion tenue au mois d'avril suivant.

Dans mon rapport annuel de 1990-1991, j'ai formulé le voeu que cette nouvelle politique traite, entre autres, des points suivants :

- l'attribution des responsabilités quand les effets personnels d'un détenu qui partage sa cellule avec un autre sont perdus ou endommagés;
- le calcul de la valeur de remplacement au moment du règlement des réclamations des détenus;

En 1991, on nous a informés que les régions avaient donné suite aux recommandations du rapport de vérification de 1989. On nous a dit en 1992 que la version 2 du SGD permettrait de contrôler efficacement les transfèrements de détenus à l'échelle nationale et, de nouveau en 1993, que les transfèrements étaient contrôlés au niveau de l'établissement. Trois ans de faux espoirs.

Dans le rapport annuel de l'an dernier, je disais, en conclusion, que les « enquêtes menées par le Bureau sur les plaintes des détenus relatives aux transfèrements n'ont guère révélé d'indices d'un contrôle efficace de la qualité, et les demandes précises que nous avons adressées aux régions et aux établissements au sujet de leurs mesures de contrôle du processus n'ont permis d'obtenir que des réponses partielles ».

Dans sa réponse d'octobre 1994, le Commissaire fait savoir que la qualité des données introduites dans le SGD fait problème... et que l'on s'attend à pouvoir fournir des renseignements détaillés sur les transfèrements en 1995.

Pendant l'année qui vient de s'écouler, le Service a apporté, à la directive du Commissaire n° 540, de nouvelles modifications visant à habilitier davantage les établissements à autoriser les transfèrements, processus que, dans des rapports annuels précédents, j'avais jugé négatif sur le plan à la fois de l'efficacité et de l'objectivité.

Le Bureau a également remarqué que, du fait du surpeuplement, des transfèrements non sollicités vers des établissements provinciaux sont autorisés aux termes d'accords d'échange de services, les transfèrements inter-régionaux non sollicités à des fins de gestion de la population ont augmenté et un plus grand nombre de détenus sont logés dans des établissements dont le niveau de sécurité ne correspond pas au leur.

Sur ce dernier point, le Vérificateur général a indiqué, dans son dernier rapport, que le Service correctionnel du Canada devrait :

- réviser dès que possible l'Echelle de classement par niveau de sécurité, en se servant des données les plus récentes, afin d'en assurer la validité continue;
- envisager d'ajouter d'autres facteurs à l'échelle afin d'obtenir une meilleure cohérence entre le système de classement des détenus selon le niveau de sécurité et les dispositions relatives à la procédure d'examen expéditif;
- envisager de faire le reclassement des détenus plus d'une fois l'an et insister davantage pour que le reclassement selon le niveau de sécurité coïncide mieux avec d'autres mesures décisionnelles faisant appel à l'évaluation du risque comme le transfèrement et la libération conditionnelle.

Au moment de l'examen du Vérificateur général, environ 900 détenus étaient logés dans des établissements d'un niveau de sécurité supérieur à la cote de sécurité qui leur avait été attribuée. Le manque d'information fiable et à jour sur cette situation, à l'administration centrale, constitue, selon le Vérificateur général, « un problème très grave ».

En réponse, le Service a fait savoir qu'il avait demandé à sa Direction de la recherche d'effectuer une étude sur la fiabilité et l'application de l'Echelle de classement par niveau de sécurité, et la question de la cohérence ou de la corrélation entre la procédure d'examen expéditif et le classement de sécurité de chacun des détenus sera examinée.

Dans toutes les régions, les centres de réception pratiquent la double occupation des cellules, et le placement des détenus de ces unités dans les établissements à la suite du processus de réception accuse souvent des retards, par suite de l'état de surpeuplement systémique, ce qui a pour effet de retarder l'accès du détenu aux programmes qui lui sont nécessaires. Les détenus de la population générale transférés d'un établissement à l'autre, soit « latéralement » soit à un niveau de sécurité inférieur, pour qu'ils puissent participer à des programmes disputent à ceux des centres de réception des cellules de moins en moins nombreuses, et leurs transfèvements ont également été, dans nombre de cas, excessivement retardés.

Outre ce qui précède, le surpeuplement a limité la possibilité, pour le Service, de transférer des détenus qui souhaitent bénéficier de l'isolement protecteur et c'est ainsi qu'un plus grand nombre de ces détenus sont mis à deux par cellule dans des unités d'isolement pour de longues périodes.

Le Commissaire m'a de nouveau informé en décembre 1993 que les régions ont mis en place des mécanismes de contrôle pour se conformer aux conclusions de la vérification interne effectuée en 1989, et que la mise en service de la version 2 du Système de gestion des détenus permettra de contrôler efficacement les transfèvements au niveau national.

Selon la vérification de 1989, il fallait établir un mécanisme plus efficace de contrôle de la qualité aux niveaux régional et national pour s'assurer que les transfèvements sont conformes aux méthodes établies et respectent les délais en matière de décision.

Les enquêtes menées par le Bureau sur les plaintes des détenus relatives aux transfèvements n'ont guère révélé d'indices d'un contrôle efficace de la qualité, et les demandes précises que nous avons adressées aux régions afin de connaître les résultats de leurs mesures de contrôle du processus n'ont permis d'obtenir que des réponses partielles.

Le contrôle du processus de transfèvements au niveau national est encore retardé en attendant la mise en place de la version 2 du Système de gestion des détenus.

c) 1994 - 1995

Les décisions de transfèvements et le processus décisionnel pertinent représentent encore la catégorie de plaintes la plus importante. L'équipe chargée par le Service en 1989 de faire une vérification interne a recommandé la mise en place aux paliers régional et national d'un mécanisme efficace de contrôle de la qualité qui permette de s'assurer que les procédures et les délais prescrits en matière de transfèvements sont respectés.

Au cours des cinq dernières années, le Bureau a beaucoup parlé des insuffisances du processus de transfèvements et a présenté nombre de recommandations à l'appui des résultats de la vérification de façon que :

- a) le système permette de procéder à l'examen objectif des demandes de transfèvements et de rendre des décisions dans des délais raisonnables;
- b) l'examen des appels porte non seulement sur la décision prise, mais aussi sur l'impartialité du processus de prise de cette décision;
- c) un résumé de l'examen des appels de décisions de transfèvements soit présenté dans un rapport trimestriel.

En 1989, le Service a procédé à une vérification interne de son processus de transfèrement non sollicité par le détenu. L'équipe de vérification a fait deux observations corroborant les préoccupations que nous avions exprimées antérieurement. En premier lieu, elle a souligné la nécessité de mieux informer tant le personnel que les détenus au sujet des recours prévus concernant les décisions relatives à ce type de transfèrement. En second lieu, elle a recommandé la mise en place d'un mécanisme plus efficace de contrôle de la qualité aux paliers régional et national qui permette de s'assurer que les procédures et les délais prescrits en matière de transfèvements sont respectés.

Dans mon rapport annuel de 1990-1991, je demandais que le Service donne suite à la recommandation de l'équipe de vérification interne concernant la mise en place d'un mécanisme efficace de contrôle de la qualité. Je recommandais par ailleurs que le Service correctionnel, dans le cadre de sa procédure de règlement des griefs, s'assure :

- a) que le système est en mesure de procéder à l'examen objectif des demandes d'appel et de rendre une décision dans des délais raisonnables;
- b) que l'examen d'une demande d'appel porte non seulement sur la décision prise, mais aussi sur l'impartialité du processus de prise de cette décision;
- c) qu'un résumé de l'examen des appels de décisions de transfèrement soit présenté dans un rapport trimestriel.

En mars 1992, on m'a informé que le Service n'appuyait pas ma recommandation et entendait plutôt voir au règlement des questions associées au processus de transfèrement après la mise en place du Système de gestion des détenus prévue pour l'automne de 1992. J'apprends maintenant que l'administration centrale sera en mesure de contrôler directement les transfèvements de détenus après la mise en service du nouveau Système de gestion des détenus, d'ici à la fin de l'année civile 1993.

Là encore, comme pour la procédure de règlement des griefs, la préparation des cas, la double occupation des cellules et les permissions de sortir, le Service n'a pas pris les mesures raisonnables et opportunes qui s'imposent pour remédier à un problème de longue date, en partie parce qu'il attend toujours la mise en place d'un système automatisé de gestion des détenus. On ne peut plus se permettre d'attendre l'implantation d'un système qui est constamment remise à plus tard pour prendre les mesures correctives qui s'imposent. Les hauts responsables ne peuvent plus se permettre d'invoquer les insuffisances de ce système comme excuse pour ne pas agir.

b) 1993 - 1994

La décision de transférer un détenu et le processus décisionnel représentent, comme par les années passées, la catégorie dans laquelle les plaintes reçues par le Bureau sont les plus nombreuses; elles sont passées, en l'espace d'un an, de 719 à 927.

Le surpeuplement a occasionné des retards excessifs à la fois dans le traitement des demandes de transfèrement et dans le processus décisionnel. La politique adoptée par le Service et consistant à faire passer, d'un point central (administration régionale) au directeur de chaque établissement, la prise de décision sur les transfèvements intra-régionaux sollicités a encore accru ces retards et a également suscité d'importantes incohérences quant aux renseignements fournis aux détenus dans les cas où un transfèrement est refusé. Le processus d'appel au palier national (Commissaire) est, comme nous l'avons mentionné précédemment, fondamentalement dysfonctionnel. Les retards qu'accuse le processus de décision et de mise en oeuvre en ce qui concerne les transfèvements intra-régionaux et inter-régionaux continuent de s'accroître.

D'un autre côté, selon le Commissaire, si l'on ne sait pas pourquoi les permissions de sortir pour le temps des Fêtes ont diminué en 1993-1994, dans l'ensemble, les permissions de sortir avec ou sans surveillance et les placements à l'extérieur ont augmenté d'environ 4 %. Nous avons demandé ces données et nous les examinerons avec soin parce que le programme de permissions de sortir a été et devrait continuer d'être un élément clef du processus de préparation des cas et de réinsertion.

c) 1994 - 1995

Le Service n'a rien fait, en dépit de ses engagements antérieurs, pour contrôler et évaluer les raisons de la diminution des permissions de sortir. Je crains que l'inaction des cinq dernières années n'ait sérieusement mis en danger la viabilité de ce programme comme élément efficace du processus de mise en liberté sous condition.

Je sais bien que, récemment, le Commissaire a apparemment reconnu le fait que notre Bureau a soulevé des questions légitimes au sujet des baisses enregistrées et qu'il s'est par la suite engagé à faire une évaluation du programme de permissions de sortir en 1995-1996, mais je n'en suis pas moins conscient des insuffisances du Service dans ce domaine.

Il faut reconnaître que le Service ne possède pas de base de données fiables lui permettant de mesurer ses résultats actuels dans ce secteur. C'est pourquoi, avant d'entreprendre une « évaluation » du programme, le Service doit définir clairement ce que signifie l'évaluation, quelle méthode il faut employer et quel but poursuivre.

d) 1995-1996 - Situation actuelle

J'apprends qu'on est en train de faire une évaluation du Programme de permissions de sortir du Service, laquelle permettra d'examiner le rapport qu'il y a entre les permissions et la mise en liberté sous condition discrétionnaire, ainsi que les résultats de la mise en liberté sous condition. Cette évaluation doit être terminée en avril 1996.

J'attends avec impatience les résultats de cette évaluation où l'on semble avoir tenu compte des préoccupations liées à cette question.

7. TRANSFÈREMENTS

a) 1992-1993

Ainsi que je l'ai mentionné dans mes derniers rapports, les décisions relatives aux transfèrements peuvent être les plus importantes prises par le Service correctionnel du Canada pendant l'incarcération d'un détenu. Qu'elles visent un premier placement, un transfèrement non sollicité par le détenu dans un établissement à sécurité plus élevée ou un transfèrement sollicité par le détenu, ces décisions influent non seulement sur l'accès immédiat de l'intéressé aux programmes et aux privilèges, mais aussi sur ses chances d'être considéré pour une mise en liberté sous condition. Au cours d'une année donnée, il y a très peu de détenus dans les pénitenciers fédéraux qui ne sont pas touchés par une décision de transfèrement. Il n'est donc pas étonnant que les décisions de transfèrement et le processus de prise de ces décisions représentent, encore cette année, la catégorie dans laquelle les plaintes adressées à notre Bureau ont été les plus nombreuses.

- c) le Service n'a pas élaboré une base de données complète permettant de relever les écarts dans les taux d'octroi des permissions de sortir (recommandation du rapport Pepino);
- d) le Service attend l'implantation du système amélioré de gestion des détenus pour effectuer une analyse complète, à l'échelle du système, du programme de permissions de sortir.

Je crois que, depuis deux ans, le Service cherche à brouiller les pistes au sujet de cette question. Dans certains établissements, les permissions de sortir ont diminué de moitié entre 1987 et 1992, et l'écart entre les taux d'octroi d'une région à l'autre est dans certains cas de cinq à un. En mettant les choses au mieux, le Service ne peut que faire des conjectures sur les raisons de ces baisses et de cet écart.

La Loi sur le système correctionnel et la mise en liberté sous condition a changé les règles du jeu en matière de permissions de sortir. Tant qu'il ne disposera pas d'une solide base de données chronologiques et qu'il n'aura pas cerné les variables influant sur le fonctionnement du programme, le Service ne sera pas capable de bien évaluer les répercussions des changements apportés par la Loi au programme des permissions de sortir.

J'estime qu'il s'agit là d'un programme important qui contribue directement à la réinsertion sociale des détenus et qui a une incidence certaine sur la capacité du Service de préparer les cas dans les délais convenus en prévision de la prise de décision relative à la mise en liberté sous condition. Il y a beaucoup trop longtemps que ce programme ne reçoit pas toute l'attention qu'il mérite.

b) 1993 - 1994

Le Commissaire m'avait fait savoir en août 1993, en réponse au rapport de l'an dernier, que le Service effectuait une étude sur les conséquences de la *Loi sur le système correctionnel et la mise en liberté sous condition* sur le programme de permissions de sortir.

On m'a informé par la suite, en décembre 1993, qu'il appartenait au directeur de chaque établissement de contrôler l'utilisation des permissions de sortir. Étant donné toutefois les préoccupations communes à l'enquêteur correctionnel et au Service correctionnel du Canada, le Service allait procéder à des examens périodiques au niveau national ou régional. Bien entendu, si des informations provenant d'une source quelconque semblaient indiquer l'existence de problèmes particuliers concernant les permissions de sortir quelque part dans le système, les examens porteraient sur ces aspects.

En réponse à notre rappel sur la question des examens périodiques nationaux ou régionaux, le Bureau a appris en mars 1994 que le Service n'avait aucun projet immédiat relatif à de tels examens des programmes de permissions de sortir. On nous a également fait savoir à ce moment-là que chaque établissement allait continuer de contrôler et d'analyser les données pertinentes.

Nous avons demandé à chaque établissement les résultats de ses mesures de contrôle et d'analyse. Les réponses reçues ne sont guère de nature à révéler l'existence de ce qui pourrait ressembler à des mesures permanentes de ce genre.

Le Bureau continue de recevoir un grand nombre de plaintes sur les permissions de sortir, mais il ressort de nos discussions avec les détenus, que ceux-ci en viennent à accepter que diminuent les possibilités de bénéficier du programme. Pour constater cette diminution, il suffit d'examiner les données produites par le Service pour la période des Fêtes : de plus de 1 000 il y a une dizaine d'années, les permissions de sortir à l'occasion de Noël n'étaient plus que de quelque 800 de 1988 à 1992, et à Noël, l'an dernier, moins de 400 avaient été accordées.

a) 1992-1993

Comme nous l'avons signalé l'an passé, les problèmes liés à ce programme ont été portés à l'attention du Service correctionnel du Canada en juin 1989, et j'en ai exposé le détail dans mon rapport de 1990-1991. En principe, le Service correctionnel s'était alors engagé à mener dans chaque établissement une analyse complète de la situation dans le but de déterminer où se produisaient les baisses enregistrées. Il nous communiquait toutefois en mai 1991 ses chiffres sur les permissions de sortir accordées en 1990, selon lesquels le nombre de ces permissions avait augmenté par rapport à l'année précédente, puis nous faisait savoir, sans fournir les résultats de l'analyse complète de la situation dans chaque établissement prévue au départ, que la situation ne semblait plus constituer un problème et que la question était considérée comme réglée. En mars 1992, le *Rapport du groupe chargé d'examiner le programme de permissions de sortir pour les détenus dans les pénitenciers* (Pepino) était rendu public; il contenait notamment la recommandation suivante :

Le Service correctionnel du Canada devrait entreprendre une analyse complète dans chaque établissement afin de vérifier le taux de permissions de sortir avec surveillance et sans surveillance accordées au cours des cinq dernières années, ainsi que toute diminution dans le taux et les raisons qui la motivent. De plus, le SCC devrait élaborer une base de données complète permettant de relever les écarts dans les taux d'octroi de permissions de sortir et d'établir un cadre permettant d'analyser les renseignements recueillis dans chaque établissement, comme le profil de la population, le moment de la peine où les permissions de sortir sont accordées, et les échecs et les réussites des permissions de sortir.

Peu après, en avril 1992, le Service correctionnel nous informait qu'il n'avait pas l'intention de consacrer plus de temps à l'examen des données antérieures sur les permissions de sortir, et qu'il ne prévoyait pas incorporer ce genre de données dans les énoncés de ses résultats. Il est clair que le Service n'entendait pas donner suite à la recommandation contenue dans le rapport.

On nous a également informés en avril 1992 que le Service correctionnel avait donné aux régions l'ordre de contrôler les écarts enregistrés dans les taux d'octroi de permissions de sortir et de prendre les mesures correctives nécessaires. Comme nous recevions toujours des plaintes à ce sujet et que, d'après nos constatations, le nombre de permissions de sortir continuait de diminuer, nous avons demandé à voir les résultats des contrôles effectués dans les régions et une description des mesures correctives prises à cet égard. En décembre 1992, on nous a fait savoir que les régions ne considéraient pas le contrôle de ce programme comme une priorité.

J'apprends aujourd'hui qu'une fois que le système amélioré de gestion des détenus sera mis en place, d'ici à la fin de cette année civile, le Service disposera de données plus complètes sur le programme des permissions de sortir dans chaque établissement. Le Service a alors l'intention d'entreprendre une analyse complète à l'échelle du système de son programme de permissions de sortir.

Pour résumer l'état de la question :

- a) le Service n'a pas donné suite à la recommandation formulée dans le *Rapport du groupe chargé d'examiner le programme de permissions de sortir pour les détenus dans les pénitenciers* (Pepino) publié en mars 1992 en vue d'une analyse dans chaque établissement;

- b) les régions n'ont pas procédé au contrôle des écarts dans les taux d'octroi des permissions de sortir prescrit par le Service au début de 1992;

Je n'ai jamais laissé entendre qu'il était facile de comprendre ou d'analyser ces facteurs. J'avais simplement fait observer que les données dont dispose le Service ou, du moins, celles qui sont fournies à notre Bureau se prêtent difficilement à une analyse valable des causes précises de la forte hausse constatée. La première étape pour être en mesure de comprendre autant que possible les facteurs qui contribuent à la croissance de la population a été exposée en détail, plus haut, dans les observations sur la préparation des cas et l'accès aux programmes.

Sur la question de la double occupation des cellules, qui est manifestement liée à la très forte croissance de la population et, plus précisément, sur la question de la double occupation dans le secteur d'isolement, le Service m'a récemment fait savoir qu'il ne tenait « malheureusement » plus cette information. Ce fait soulève de sérieux doutes sur la préoccupation dont le Service fait état depuis longtemps à propos de la pratique de la double occupation dans les cellules situées à l'extérieur des aires réservées à la population carcérale générale et sur son engagement à effectuer une surveillance suffisante pour en réduire le plus possible les effets négatifs.

Le Service, à l'échelon national, ne semble pas prêter attention à cette question. J'estime donc nécessaire de répéter une chose évidente : **il est inhumain de mettre deux personnes dans une cellule d'isolement, conçue pour une seule, pour une période pouvant atteindre 23 heures sur 24, des mois durant.** Le maintien de cette pratique, sans contrôle, est contraire non seulement aux règles élémentaires du respect de la personne, mais aussi aux conventions internationales.

d) 1995-1996 - Situation actuelle

Au cours de l'année, l'Enquêteur correctionnel a été informé : qu'une étude sur la double occupation des cellules avait été faite au cours de l'été 1995, étude qui lui serait communiquée après que les dernières données seraient ajoutées; qu'une étude sur la double occupation des cellules allait être entreprise en novembre 1995; et enfin, qu'un projet de recherche sur l'effet de la double occupation dans les aires d'isolement était sur le point d'être réalisé. À la fin de l'année, n'ayant reçu aucune de ces études, j'ai appris cependant qu'un examen préliminaire avait déterminé qu'un projet de recherche sur l'effet de la double occupation dans les aires d'isolement n'était pas faisable pour le moment, et que, par conséquent, il n'avait pas été approuvé dans le cadre du plan de recherche du Service.

J'ai appris également au même moment que le service responsable de l'imputabilité et de la mesure du rendement allait mettre au point un mécanisme de contrôle pour la double occupation des cellules. Je sais que j'ai dit dans l'Introduction que je m'abstiendrais de répéter ce que j'ai déjà dit ou de transmettre les réponses du Service. Mais sur ce point, je me vois contraint de revenir sur cet engagement et de répéter ce que j'ai écrit l'an dernier :

Le Service, à l'échelon national, ne semble pas prêter attention à cette question. J'estime donc nécessaire de répéter une chose évidente : **il est inhumain de mettre deux personnes dans une cellule d'isolement, conçue pour une seule, pour une période pouvant atteindre vingt-trois heures sur vingt-quatre, des mois durant.** Le maintien de cette pratique, sans contrôle, est contraire non seulement aux règles élémentaires du respect de la personne, mais aussi aux conventions internationales.

Aujourd'hui, plus de 2 000 détenus des pénitenciers sont à deux, parfois même à trois, par cellule, soit plus de 20 % de la population dite à sécurité maximale ou moyenne. Rien n'indique de façon tangible que le Service a donné suite à ma recommandation en vue de «l'application de méthodes efficaces, opportunes et pratiques de contrôle de la situation». Ce problème exige toujours l'attention immédiate du Service, puisque force est de constater qu'il ne disparaîtra pas de lui-même.

b) 1993 - 1994

Le nombre de détenus qui partageaient une cellule a presque doublé entre janvier 1993 et janvier 1994, et il s'établit maintenant à plus de 3 000. Le Service correctionnel du Canada, comme je l'ai fait observer dans l'introduction, n'affirme plus, comme il le faisait il y a deux ans, que la double occupation des cellules ne constitue pas une «mesure correctionnelle acceptable» et ne s'engage plus à «réduire le recours à une telle mesure en préparant les détenus à être libérés sous condition dans les délais prévus», mais il reconnaît maintenant la double occupation comme «pratique normale et acceptée». Rien n'indique encore que le Service ait pris des mesures raisonnables en réponse à ma recommandation maintes fois reprise d'appliquer des méthodes efficaces, opportunes et pratiques de surveillance de la situation. En réalité, le Service possède actuellement moins de données fiables à ce sujet qu'il y a un an, parce qu'il a cessé, en septembre 1993, de produire chaque mois son rapport national, en vue de la mise en place de la version 2 du Système automatisé de gestion des détenus.

En mai 1993, le Comité de direction du Service a accepté de constituer un groupe de travail chargé d'examiner les options permettant à court et à long terme de réduire autant que possible la double occupation des cellules et de créer le milieu de vie le plus humain possible compte tenu des restrictions budgétaires. On m'a dit que les résultats obtenus par le groupe de travail seraient communiqués à mon Bureau. Je n'ai encore rien reçu.

Le Commissaire a présidé, en janvier 1994, un Groupe de discussion sur la politique en matière d'installations. Le plan d'action de ce groupe de discussion recommandait de procéder, dans un délai de trois mois, à une étude permettant de répondre à la question suivante : « Pourquoi les taux d'incarcération augmentent-ils ? » Il fallait examiner en particulier les points suivants : « admissions, libérations, taux de renonciation, taux de concordance de la CNLC, formalités administratives en retard, besoins en matière de placements à l'extérieur, le caractère opportun des programmes de mise en liberté et la pertinence de l'infrastructure communautaire ». J'ai hâte de recevoir un exemplaire du compte rendu de l'examen.

En réponse à mes préoccupations particulières sur l'aspect humain de la double occupation des cellules d'isolement, le Service a déclaré en décembre 1993 que le SCC s'efforçait d'éviter la double occupation dans le secteur d'isolement et que si l'Enquêteur correctionnel révélait des cas précis où cette situation existe, le Service prendrait rapidement des mesures pour corriger la situation. Non seulement ai-je indiqué des cas précis, mais l'examen des rapports mêmes du Service permet de constater l'existence, dans quatorze établissements à sécurité maximale et moyenne, d'une double occupation des cellules permanente dans les unités d'isolement préventif et d'isolement disciplinaire.

c) 1994 - 1995

On compte actuellement quelque 5 000 détenus sous responsabilité fédérale qui doivent partager des cellules construites à l'origine pour loger un seul détenu.

Je suis encouragé par le fait que le Commissaire ait récemment déclaré que le Service reconnaît la nécessité de comprendre dans la mesure du possible les facteurs qui contribuent à la croissance de la population. Je suis toutefois un peu troublé par le commentaire selon lequel l'expérience montrerait qu'une analyse exhaustive est beaucoup plus difficile à effectuer que ne le laisse entendre l'Enquêteur correctionnel.

Je m'inquiétais à nouveau des répercussions de la double occupation des cellules à l'extérieur des aires réservées à la population carcérale générale en rappelant que les détenus qui sont dans ce cas ont un accès limité aux programmes et aux possibilités d'emploi, et une liberté de mouvement restreinte, ce qui les oblige à passer beaucoup de temps dans leur pavillon cellulaire.

Le Commissaire a répondu à mes observations en ces termes :

[Traduction]

...la double occupation des cellules ne constitue pas une mesure correctionnelle acceptable, et le Service continuera de tout mettre en oeuvre pour réduire le recours à une telle mesure en préparant les détenus à être libérés sous condition dans les délais prévus.

Dans mon rapport de 1990-1991, le nombre des détenus placés à deux par cellule étant passé à 1 200, dont 500 partageaient des cellules à l'extérieur des aires réservées à la population carcérale générale, je recommandais que le Service voie à surveiller en permanence, tant à l'échelle nationale qu'à l'échelle régionale, le nombre de détenus partageant une cellule à l'extérieur des aires réservées à la population carcérale générale, et la durée de cette double occupation.

Le Service correctionnel du Canada a rejeté cette recommandation, et le Commissaire nous a indiqué que le contrôle du nombre de détenus partageant une cellule se ferait «dans le cadre de l'examen opérationnel et du processus de vérification du Service».

Dans mon rapport de l'an dernier (1991-1992), le nombre des détenus partageant une cellule étant passé à 1 700, je recommandais à nouveau l'application de méthodes efficaces, opportunes et pratiques de contrôle de la situation.

En avril 1992, j'ai appris que le Service était en train d'élaborer un système de suivi des détenus qui permette de déterminer ceux d'entre eux qui partagent une cellule pendant une portion de leur peine d'isolement. Ce système n'est toujours pas en place.

Nous avons demandé copie des rapports d'examen opérationnel et de «vérification interne» sur la double occupation des cellules. En janvier 1993, on nous a informés que cette question n'avait pas encore fait l'objet d'une vérification interne ou d'un examen opérationnel en bonne et due forme, que chaque région avait mis en place un mécanisme de contrôle de la double occupation des cellules et d'établissement de rapports à l'intention de l'administration centrale, et qu'un rapport national récapitulatif était produit une fois par mois.

Pour résumer l'état de la question :

- il n'existe pas de système de suivi permettant d'identifier les détenus qui partagent des cellules à l'extérieur des aires réservées à la population carcérale générale;
- la situation de double occupation des cellules n'a pas fait l'objet d'examen opérationnels ni de vérifications internes;
- les chiffres fournis par les régions sur la double occupation des cellules sont incohérents et parfois inexacts;
- le rapport national récapitulatif publié chaque mois reflète les incohérences et les inexactitudes des rapports régionaux;
- le rapport national récapitulatif ne contient que des chiffres, qui ne semblent pas avoir été examinés ni interprétés;
- le nombre de détenus partageant une cellule a doublé depuis 1990, date à laquelle le Service s'est engagé à en réduire le nombre «en préparant les détenus à être libérés sous condition dans les délais prévus».

Premièrement, la base d'informations du Service qui concerne ces variables, particulièrement en ce qui touche les taux de renonciation et le caractère opportun des programmes de mise en liberté, montre encore des déficiences. Il demeure donc difficile de déterminer la cause des retards des mises en liberté ou de déterminer les mesures de gestion qui doivent être prises. Je propose qu'un effort concerté soit entrepris immédiatement pour identifier les causes des taux de renonciation et des retards dans les audiences de la Commission nationale des libérations conditionnelles, ainsi que les facteurs qui interviennent actuellement dans la détermination du calendrier de mise en liberté.

Deuxièmement, les initiatives lancées récemment par le Service, par exemple le Système d'évaluation initiale des délinquants et le Plan correctionnel révisé, semblent avoir été mises en place sans la moindre indication des effets que l'on en attend et sans mécanisme pouvant mesurer ces effets. Je note que le Service est en voie de mettre au point des indicateurs de rendement pour un certain nombre de volets du processus de gestion des cas, et j'attends avec impatience d'en prendre connaissance.

Troisièmement, la programmation du Service, même si elle est exhaustive, est dépourvue de contrôle de gestion et de coordination. Le personnel ou les détenus ne disposent que d'informations limitées sur l'efficacité des programmes individuels ou sur l'accès aux programmes dans d'autres établissements ou en milieu communautaire. Il en résulte parfois que l'on prend des décisions importantes en matière, par exemple, de transfert ou de libération conditionnelle en l'absence d'informations pertinentes. À ce sujet, je recommande :

- que le Service se dote d'un processus qui lui permettra d'évaluer ses programmes afin de s'assurer qu'ils répondent aux besoins de la population carcérale;
- que les résultats de ce processus soient communiqués à la population carcérale;
- que le Service entreprenne un examen de l'ensemble de ses programmes pour s'assurer que ses programmes communautaires répondent aux besoins de ceux qui pourraient bénéficier d'une libération sous condition et complètent les programmes en établissement.

Quatrièmement, le partage des responsabilités entre l'agent de gestion des cas et l'agent de correction (niveau II) au sein de la structure organisationnelle actuelle du Service tend à créer de la confusion, à retarder les choses et parfois à diluer la responsabilité pour la gestion de chaque cas. Je propose qu'on repense la division du travail afin que le Service puisse atteindre ses objectifs et répondre aux intérêts du détenu dans le cadre de cette structure organisationnelle.

5. DOUBLE OCCUPATION DES CELLULES

a) 1992 - 1993

Depuis 1984, je parle dans mes rapports annuels des répercussions négatives de la double occupation des cellules sur les détenus et sur la gestion des établissements. Cette année-là, le nombre de détenus partageant une cellule s'élevait à environ 700, et un grand quotidien avait repris en manchette une déclaration du commissaire du Service correctionnel selon laquelle le problème de la surpopulation des pénitenciers serait éliminée avant juillet.

Dans mon rapport annuel de 1989-1990, le nombre de détenus partageant une cellule dans les pénitenciers étant passé à environ 1 000, je réitérais ma recommandation du 21 juin 1984 :

Que le Service correctionnel du Canada cesse immédiatement la pratique de la double occupation des cellules dans les aires d'isolement et d'isolement disciplinaire.

Je suis d'accord avec le Commissaire lorsqu'il dit qu'il s'agit d'un problème complexe auquel on ne peut apporter une solution unique. Il s'agit également d'une question qui influe directement sur la capacité du Service de bien gérer la croissance de la population carcérale. C'est précisément à cause de la complexité et de l'importance du lien qui existe entre l'accès aux programmes, la préparation des cas et la mise en liberté en temps opportun que j'ai recommandé, il y a un certain nombre d'années, que le Service prenne des mesures immédiates pour bien comprendre l'étendue et les causes des problèmes qui expliquent les retards dans ces domaines.

Le contenu actuel de la base de données du Service à ce sujet ne permet toujours pas de bien déterminer l'ampleur ni les causes précises des problèmes rencontrés, ni les mesures ou la stratégie que la direction doit mettre en oeuvre pour y apporter des solutions raisonnables.

En janvier 1994, à la suite des travaux d'un Groupe de discussion sur la politique en matière d'installations, le Commissaire a demandé qu'une étude soit faite afin de déterminer pourquoi les taux d'incarcération augmentaient. Il fallait examiner en particulier les points suivants : « admissions, libérations, taux de renonciation, taux de concordance (Commission nationale des libérations conditionnelles), formalités administratives en retard, besoins en matière de placements à l'extérieur, caractère opportun des programmes de mise en liberté et caractère approprié de l'infrastructure communautaire. »

On m'a fait savoir plus tôt cette année que, « pour un certain nombre de raisons », il n'était pas possible d'avoir, à cet égard, de l'information sur les admissions, les mises en liberté, les renonciations, les reports et les taux de concordance. On m'a dit également que beaucoup plus de 1 000 détenus non violents se trouvaient encore dans les pénitenciers fédéraux après la date de leur admissibilité à la libération conditionnelle, mais on ne m'a fourni aucune donnée pour expliquer cette situation. Il faut que le Service cherche à remédier à cette absence d'information s'il veut être en mesure de régler la question. Je propose, comme point de départ, de donner suite à l'examen dont il est question ci-dessus, et qu'a ordonné le Commissaire en janvier 1994.

Tant que des progrès considérables n'auront pas été accomplis dans ce domaine, les efforts que fait le Service pour régler le problème de surpeuplement continueront de porter sur les symptômes plutôt que sur les causes.

d) 1995-1996 - Situation actuelle

À mon avis, le Service correctionnel a bien identifié en janvier 1994 les variables auxquelles il faut porter attention si l'on veut remédier aux préoccupations qui tiennent à la préparation des cas et à l'accès aux programmes, notamment : « admissions, libérations, taux de renonciation, taux de concordance de la Commission nationale des libérations conditionnelles, formalités administratives en retard, besoins en matière de placements à l'extérieur, caractère opportun des programmes de mise en liberté et caractère approprié de l'infrastructure communautaire ».

Je sais que les rapports qu'il y a entre ces variables sont complexes, tout comme leur effet sur la bonne gestion des cas et des programmes. Je reconnais aussi que le Service a pris un certain nombre d'initiatives au cours des quelques dernières années pour rationaliser le processus de gestion des cas et établir de meilleures concordances entre les détenus et les programmes. Je crois que ces initiatives ont été entravées par un certain nombre de facteurs.

Comme je l'ai fait remarquer dans le dernier rapport annuel, on m'a dit en 1991 qu'un «Système d'information de gestion des détenus conçu pour permettre aux gestionnaires de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés qui répondent à leurs besoins serait mis en place d'ici à l'automne 1992».

Pour que le Service atteigne son principal objectif général et qu'il gère efficacement la croissance de sa population, la préparation des cas et l'accès aux programmes en temps voulu sont essentiels. Plus du tiers de la peine d'un détenu, soit cette période qui sépare la date d'admissibilité à la semi-liberté de celle de la libération d'office, relève d'un pouvoir discrétionnaire. Or, pour réduire la période d'incarcération discrétionnaire, le Service doit commencer, dès le début de la peine, à préparer le cas en vue d'une mise en liberté sous condition et ainsi être en mesure de présenter le cas aux décideurs au moment le plus propice. Il n'y a guère d'avantages à présenter les cas à la toute fin de cette période.

Le Commissaire n'a pas manqué d'informer le Bureau de l'expansion rapide des programmes lancés par le SCC ces dernières années et de souligner que l'expansion des programmes de lutte contre la toxicomanie, l'acquisition des compétences psychosociales et de traitement des délinquants sexuels continue d'être une priorité. Il a ajouté que, à la fin de 1993-1994, le SCC pouvait traiter presque 1 800 délinquants sexuels par année, comparativement à moins de 200 en 1988. Tout cela est bien beau, mais il ne s'agit pas ici de la prolifération des programmes, mais plutôt de l'incapacité du Service à déterminer d'une façon raisonnable dans quelle mesure les détenus ont accès et peuvent participer en temps voulu aux programmes clés nécessaires, ce qui l'empêche d'assumer sa responsabilité d'accorder à la population carcérale un traitement juste et équitable.

Il semble que nous gardons beaucoup de délinquants en prison à grands frais pour qu'ils suivent des programmes qui pourraient être appliqués à l'extérieur. Il s'agit de savoir, dans le cas présent, non pas combien de détenus sont libérés, car ils finissent tous par l'être, mais à quel moment de leur peine ils le sont. Comme je l'ai fait observer dans l'introduction, je ne crois pas que, à long terme, la solution aux retards dans la préparation des cas réside dans l'accroissement des ressources ou du nombre de places dans les établissements.

Au fil des ans, le Service a fini par compter, du fait de la multiplicité des programmes dans les établissements, sur la période d'incarcération prolongée qui s'étend de la date d'admissibilité à la libération conditionnelle à celle de la libération d'office, pour l'application de ces programmes. Il semble que le personnel de la gestion des cas hésite à envisager la mise en liberté sous condition tant que les programmes, dont beaucoup pourraient être fournis sous surveillance dans la collectivité, n'ont pas été menés à bien. La croissance actuelle de la population, causée en partie par le fait que des délinquants restent dans les établissements pour terminer ce qu'ils ont commencé, a encore retardé l'accès à ces programmes, ce qui a pour effet d'augmenter la période d'incarcération et de faire croître la population.

Cet enchaînement des effets ne sera probablement pas interrompu tant que le Service n'aura pas accepté le principe voulant que la protection de la société est liée à la réinsertion sociale des détenus en temps opportun et qu'il n'agira pas en ce sens. Le maintien des conditions actuelles dans ce domaine entraînera la croissance de la population et aura de sérieuses conséquences sur le succès du processus actuel de décision au sein du système, sur l'efficacité et l'efficience des programmes existants dans les établissements et sur la capacité du Service d'assurer à la population carcérale un traitement juste et équitable.

c) L'élaboration et la mise en oeuvre d'un système de suivi fournissant aux gestionnaires les éléments d'information concernant les répercussions des programmes de traitement des délinquants sexuels sur la prise de décisions en matière de libération conditionnelle et les résultats des efforts déployés par le Service en vue de s'assurer que «les délinquants sexuels ont la possibilité de se faire évaluer et traiter avant les dates auxquelles ils sont admissibles à la libération conditionnelle».

d) Il n'existe pas de système de suivi capable de fournir l'information requise dans ce domaine. Les délinquants sexuels participent rarement à des programmes de traitement avant les dates auxquelles ils deviennent admissibles à la libération conditionnelle et, dans bien des cas, leur traitement n'est pas terminé avant la date de leur libération d'office. Le rapport trimestriel sur les cas de renonciation et de report survenus entre octobre et décembre 1992 indique que près de 500 cas de retard étaient dus au fait que le détenu devait terminer ou poursuivre un traitement ou un programme d'apprentissage avant l'examen ou l'audition.

Le Service reconnaît qu'un problème se pose dans le domaine de la préparation des cas et de l'accès aux programmes de santé mentale. Le contenu actuel de la base d'information du Service dans ce domaine ne permet pas de bien déterminer l'ampleur ni les causes précises des problèmes rencontrés, ni les mesures ou la stratégie que la direction doit mettre en oeuvre pour y apporter des solutions raisonnables.

Nous avons appris qu'un système amélioré d'information sur les détenus devait entrer en service cet été. Tant que le Service ne sera pas capable de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés dont ils ont besoin, les politiques et les décisions de gestion qu'il adoptera dans ce domaine demeureront ponctuelles et incohérentes. Je recommande une fois de plus que le Service accorde une attention immédiate à cette question.

c) 1993 - 1994

Nous sommes bien placés pour savoir que peu de progrès ont été faits sur les questions relatives à la préparation des cas et à l'accès en temps voulu aux programmes de santé mentale. Les engagements pris par le Service l'an dernier et exposés en détail plus haut n'ont pas eu de suite, et le contenu actuel de la base d'information du Service dans ce domaine clef ne permet toujours pas de bien déterminer l'ampleur ni les causes des problèmes rencontrés, ni les mesures ou la stratégie que la direction doit mettre en oeuvre pour y apporter des solutions raisonnables.

Plus précisément, le Système automatisé de gestion des détenus en est resté au stade du développement; des rapports trimestriels sur les renonciations et les reports n'ont pas été produits au cours de l'année, mais le Service continue de soutenir que la préparation des cas en temps voulu constitue une priorité; l'élaboration et la mise en oeuvre d'un système de suivi conçu pour fournir régulièrement aux gestionnaires les informations concernant l'accessibilité et les effets des traitements leur permettant de prendre des décisions en matière de mise en liberté sous condition n'ont pas encore eu lieu; la fréquence des véritables contacts entre le personnel de la gestion des cas et les détenus va, selon les deux groupes, en diminuant; le taux de mise en liberté sous condition en temps voulu baisse et la population carcérale continue de s'accroître.

Le Service n'avait d'abord dit, en réaction au rapport annuel de l'an dernier, que «la mise en oeuvre, à l'échelle nationale, du processus d'évaluation initiale permettra de connaître systématiquement les détenus ayant besoin d'une intervention à caractère psychologique ou psychiatrique au début de l'exécution de leur peine... et permettra d'inscrire les détenus d'après des facteurs comme la période qu'il leur reste à purger avant l'admissibilité à la libération conditionnelle et les ressources totales affectées aux programmes... À cause de complications d'ordre technique liées à la deuxième version du SGD, il est difficile de prévoir quand l'évaluation initiale sera intégrée au SGD... L'évaluation ne peut être mise en oeuvre avant le début du nouvel exercice». J'ai plus tard appris que le Service avait prévu que le système d'évaluation pourrait être pleinement opérationnel dès septembre 1994.

L'initiative du changement doit venir d'en haut. Comme l'écrivait le juge Arbour : « À l'heure actuelle, il semble que l'admission d'une erreur soit perçue comme l'admission d'une défaite par le Service correctionnel. Dans un tel climat, aucune méthode interne de résolution des griefs ne sera vouée au succès. » Si l'on veut changer ce climat, le Commissaire doit faire savoir clairement que le refus d'admettre l'erreur et de prendre les mesures voulues pour corriger cette erreur est totalement inacceptable et incompatible avec les engagements qu'a pris le Service quant à la transparence, l'intégrité et l'obligation de rendre compte.

4. PRÉPARATION DES CAS ET ACCÈS AUX PROGRAMMES DE SANTÉ MENTALE

a) 1992-1993

J'ai soulevé cette question dans mon rapport de 1988-1989 en insistant sur le fait que le Service a de plus en plus de difficulté à préparer les cas correctement et dans les délais convenus en prévision de la prise de décision concernant la mise en liberté sous condition. Selon les résultats de notre examen, il était manifeste à l'époque que bon nombre des retards constatés étaient directement liés à l'incapacité du Service de voir à l'évaluation psychiatrique d'un détenu et à lui fournir les traitements requis avant les dates d'audiences de libération conditionnelle.

En 1990, j'ai fait observer que la situation avait des répercussions importantes sur la viabilité du processus décisionnel du système, sur l'efficacité de ses programmes et sur la capacité du Service d'accorder un traitement équitable aux détenus.

Je conclus mon rapport de l'an dernier sur cette question en disant :

Après avoir reconnu qu'il existait effectivement des problèmes, le Service avait pris certaines mesures dans le but de remédier à la situation. Les problèmes décélés n'ayant pas été réglés, il semble que le Service soit loin d'avoir atteint les objectifs qu'il s'est fixés. Nous croyons que le Service se doit de prendre immédiatement des mesures en vue de corriger une situation qui s'étérnise.

Les objectifs se rapportant à cette question sont les suivants :

- a) La mise en place d'un Système d'information de gestion des détenus d'ici à l'automne 1992 qui permette aux gestionnaires de déterminer si les détenus ont accès et participent en temps voulu aux programmes clés qui répondent à leurs besoins. Le système actuel ne permet pas aux gestionnaires d'obtenir ces éléments d'information. On m'a informé que le nouveau système devrait être en place à l'automne 1993.

- b) La production de rapports trimestriels sur les renonciations/reports et leurs raisons devait commencer en avril 1992. Ces rapports trimestriels devaient exposer les raisons du report de la présentation des cas en vue d'une mise en liberté sous condition de manière à ce que les cadres supérieurs puissent prendre rapidement les mesures correctives nécessaires. Le premier rapport trimestriel, publié en décembre 1992, n'indiquait pas les motifs des retards. Le deuxième et le troisième rapports trimestriels ont été publiés en janvier 1993; les motifs des retards y étaient classés en catégories générales, mais on n'y trouvait pas d'analyse ni de commentaires concernant les mesures éventuelles recommandées pour aider à réduire le nombre de ces retards.

Le dernier rapport trimestriel examiné fait état de 1 400 cas de renonciation ou de report entre octobre et décembre 1992.

Entre-temps, le nombre de plaintes reçues par le Bureau et portant particulièrement sur des retards excessifs dans le traitement des griefs au cours de l'année est passé de 165 à 258. Le nombre de détenus qui s'adressent au Bureau avant de chercher à résoudre leurs préoccupations par le système de règlement des griefs a doublé. La confiance dans la possibilité d'obtenir rapidement, grâce à cette procédure, une réponse satisfaisante aux préoccupations a sérieusement diminué. La procédure, à laquelle j'ai reproché l'an dernier de ne pas satisfaire à l'exigence, qui est exprimée dans la *Loi sur le système correctionnel et la mise en liberté sous condition*, d'être «une procédure de règlement juste et expéditif des griefs des délinquants», s'est enlisée au palier national. À l'heure actuelle, les détenus doivent attendre de six à huit mois avant d'obtenir une réponse à ce palier, alors que, selon la politique, le délai devrait être de dix jours ouvrables. Le Commissaire m'a toutefois assuré qu'il a l'intention de trouver un moyen de réduire les retards.

c) 1994 - 1995

En dépit des examens internes dont la procédure de règlement des griefs fait l'objet depuis des années et malgré les engagements pris à cet égard dans le passé, on ne voit guère plus d'indices de l'efficacité de sa gestion.

Le processus d'examen lancé en décembre 1993 en vue de recommandations précises à la haute direction du Service sur une nouvelle procédure n'a pas encore donné lieu à des changements dans la politique ou les modalités.

Le système automatisé d'établissement de rapports n'est pas encore en service, et le processus continue de s'appliquer sans qu'il soit possible d'obtenir des données pertinentes sur son fonctionnement ni de fournir aux cadres supérieurs l'information requise pour déceler les incohérences dans l'interprétation et l'application des lignes de conduite du Service.

Le Commissaire a récemment déclaré que le nombre moyen de jours qu'il faut pour répondre à un grief au troisième palier est maintenant de 50 à 60 jours, et non plus de 100 à 200 jours. Selon la politique, il faut répondre, à ce niveau, dans un délai de 10 jours ouvrables. En mars 1993, on m'a dit qu'il fallait, pour les griefs présentés au troisième palier, compter en moyenne 47 jours civils. En l'absence d'un système permanent d'établissement de rapports, il est très difficile de savoir avec exactitude si des progrès ont été accomplis dans ce domaine.

Le système ne peut pas être bien géré si l'on ne dispose pas d'une information fiable sur son fonctionnement. Avant même d'apporter des changements dans les politiques ou les modalités, la première étape consiste à mettre sur pied une base de données à l'intention de la direction afin qu'elle puisse évaluer dans quelle mesure la procédure actuelle permet d'atteindre les objectifs fixés.

d) 1995-1996 - Situation actuelle

Le Service doit accorder une grande priorité au fonctionnement de la procédure de règlement des griefs, qui doit être bien gérée à tous les niveaux, la haute direction devant être tenue responsable de son fonctionnement.

Il y a eu amélioration du processus au niveau national au cours des derniers mois, cependant, les améliorations périodiques dont j'ai été témoin au cours des dix dernières années ont été trop souvent suivies d'un retour au chaos. Si l'on veut que le système soit bien géré, avec les engagements et la reddition de compte voulus, le Service doit émettre un énoncé de politique clair qui mettra en valeur les principes de l'équité administrative; il doit en outre créer une base de données pour tous les niveaux de l'organisation, ce qui permettra de mesurer le rendement de ce système.

En dépit des examens internes dont fait l'objet depuis des années la procédure de règlement des griefs et malgré les engagements pris à cet égard dans le passé, rien n'indique, à l'échelle nationale, que le système est géré d'une manière efficace ni que les responsables concernés sont déterminés à en assurer le bon fonctionnement. Les délais de traitement des demandes prescrites par la politique sont toujours loin d'être respectés; et, dans bien des cas, les plaintes ne sont pas examinées avec tout le soin et l'objectivité nécessaires. Le système automatisé d'établissement de rapports n'est pas encore en service, et la procédure suit son chemin sans qu'il soit possible d'obtenir des données pertinentes sur son fonctionnement ni de fournir aux cadres supérieurs l'information requise pour déceler les incohérences associées à l'interprétation et à l'application des lignes de conduite du Service.

En vertu de la *Loi sur le système correctionnel et la mise en liberté sous condition*, le Service doit établir «une procédure de règlement juste et expéditif des griefs des délinquants». La procédure actuelle ne satisfait pas à cette exigence.

La procédure n'a rien d'expéditif, les étapes du traitement des griefs prenant jusqu'à six mois. On ne peut affirmer non plus qu'elle mène à un règlement juste des griefs; il s'agit plutôt d'une épreuve de force dont on sort gagnant ou perdant, la partie étant très inégale pour le détenu puisqu'il s'agit d'information qu'on lui fournit se fait plus rare à mesure que la procédure avance.

En plus de la fonction première qui lui est attribuée aux termes de la Loi, la procédure de règlement des griefs devrait être considérée par le Service comme un précieux outil de gestion permettant de cerner des problèmes précis et d'en explorer les solutions possibles; tel n'est pas encore le cas. Les établissements et les régions ne se conforment pas à la politique du Service qui demande que des rapports mensuels sur les griefs soient présentés à l'administration centrale, et rien n'indique que la procédure fasse l'objet d'un contrôle ni d'une analyse à l'échelle nationale.

Pour conclure sur ce sujet, j'aimerais réitérer les propos que j'ai tenus en 1989 : cette procédure ne sera plus efficace et plus crédible qu'à partir du moment où les hauts responsables du Service s'engageront à en assurer le bon fonctionnement.

En guise de premier pas dans cette direction, je recommande que le Service fasse une vérification approfondie, à l'échelle nationale, du fonctionnement de la procédure actuelle, non seulement pour s'assurer que les exigences relatives aux délais de traitement et à l'établissement de rapports sont respectées, mais aussi pour déterminer si les examens requis sont effectués avec le soin et l'objectivité nécessaires et si le groupe visé juge la procédure crédible.

b) 1993 - 1994

La recommandation touchant une vérification approfondie, à l'échelle nationale, du fonctionnement de la procédure de règlement des griefs n'a pas été appliquée.

Le Service reconnaît que le système de recours actuel pose «certains problèmes» et il a lancé un processus d'examen à un niveau élevé en vue de recommandations relatives à un processus restructuré. Vu l'importance que le Bureau accorde au Comité directeur de l'examen des systèmes de recours, j'ai accepté de participer à titre consultatif aux travaux du Comité directeur de l'examen des systèmes de recours. Je constate qu'il s'agit là du troisième examen majeur du processus en cinq ans, mais j'applaudis à cette initiative particulière et je suis impressionné par la détermination manifestée par ce groupe dans la recherche d'une solution efficace afin de remédier à la situation.

Le Service a décidé de ne pas ordonner d'augmentation générale du taux de rémunération des détenus ni d'examiner en profondeur l'effet qu'ont ces faibles taux de rémunération sur les opérations des établissements et les mises en liberté sous condition. Le Service n'a pas non plus complété sa présentation au Conseil du Trésor qui avait pour objet d'établir un rapport entre le taux de rémunération de détenus et leur participation aux programmes. La présentation devait viser également à augmenter l'indemnité quotidienne des détenus qui sont sans emploi pour des raisons indépendantes de leur volonté.

On n'a pas donné suite aux préoccupations liées à la rémunération des détenus. Abstraction faite de la recommandation que j'ai faite il y a longtemps concernant l'augmentation du salaire des détenus, je persiste à croire que le Service doit examiner en profondeur l'effet des taux actuels de rémunération sur les tensions et les activités illicites au sein des établissements ainsi que sur la somme dont dispose les détenus au moment de leur mise en liberté.

Je crois en outre que le Service doit mettre en pratique l'intention qu'il a exprimée dans sa présentation au Conseil du Trésor, particulièrement en ce qui concerne l'augmentation de l'indemnité quotidienne des détenus sans travail.

3. PROCÉDURE DE RÉGLEMENT DES GRIEFS

a) 1992-1993

Ce n'est pas d'hier que notre Bureau juge préoccupantes les modalités d'application de la procédure de règlement des griefs du Service correctionnel du Canada. Pour être efficace et crédible, tout mécanisme de redressement à pallier doit comporter à la fois un processus préliminaire favorisant la participation et permettant d'examiner en profondeur et objectivement les griefs, et un dernier palier où les responsables n'hésitent pas à prendre rapidement les décisions finales qui s'imposent. Comme je l'ai dit antérieurement, à mon avis, les difficultés que crée actuellement la procédure sont attribuables non pas tant à sa structure et à ses modalités d'application qu'à un certain manque d'engagement et de détermination chez les personnes chargées d'en assurer le bon fonctionnement.

Au sujet de la question de la volonté et du sens des responsabilités dont doivent faire preuve les responsables de la procédure, le Commissaire a commenté, en février 1990, l'obligation du Service de s'assurer que les détenus ont accès à un mécanisme de recours efficace en déclarant que la rapidité avec laquelle le Service donnera suite aux demandes de redressement sera perçue, à juste titre, comme un indicateur de l'importance qu'il accorde au règlement des plaintes des détenus.

Dans mon rapport de 1990-1991, je recommandais que les administrations, tant centrale que régionales, présentent des rapports trimestriels faisant état des décisions rendues, afin qu'il soit possible d'assurer une certaine uniformité dans l'interprétation des lignes de conduite du Service sur le règlement des griefs présentés par les détenus.

En mars 1992, on m'a informé que le Service n'appuyait pas la mise en place de mécanismes d'établissement de rapports distincts concernant des questions précises et qu'il avait l'intention de donner suite à cette recommandation à une échelle plus large en introduisant un système automatisé d'établissement de rapports qui permettrait de cerner et d'analyser les insuffisances éventuelles de la procédure de règlement des griefs. Ce système, qui devait être introduit avant le 1^{er} juin 1992, permettrait au Service correctionnel de déceler les incohérences dans l'interprétation des lignes de conduite.

Lors d'une réunion avec le Commissaire, j'ai appris que l'entrée en service du système était prévue pour l'été 1993.

Lorsqu'on ne peut obtenir de l'argent de sources légitimes, on est forcé de recourir ou de prendre part à un marché noir bien moins légitime : c'est un fait économique reconnu. Je crains que, faute de remédier immédiatement à cette situation, on assistera à une aggravation du climat d'agitation qui règne dans les établissements où se font déjà sentir les tensions liées au surpeuplement. Par conséquent, je recommande que des mesures soient prises dans les plus brefs délais pour que les taux de rémunération des détenus reflètent le coût de la vie dans les établissements.

Pour la cinquième année consécutive, j'ai donc recommandé que des mesures soient prises immédiatement à ce sujet.

b) 1993 - 1994

Le Service correctionnel du Canada a constamment et fermement appuyé l'idée d'une augmentation de salaire, et il a obtenu du Conseil du Trésor l'autorisation d'appliquer un nouveau système de rémunération touchant la plupart des détenus. Toutefois, en raison de la résistance que cette proposition a rencontrée dans la population, la décision a été prise, bien que le Service se soit montré réceptif sur cette question, de ne pas procéder à une augmentation au cours du présent exercice.

Il n'y a pas eu de rajustement appréciable de l'échelle de rémunération depuis une dizaine d'années. Le nombre de plaintes reçues par le Bureau au sujet de la rémunération et de l'emploi continue de s'accroître. Les problèmes qui se sont posés au niveau de l'établissement, outre la perte progressive du pouvoir d'achat des détenus et de leur capacité de faire des économies en vue de la libération, sont exposés en détail dans la lettre ci-dessus mentionnée à l'ex-commissaire du Service.

Lier l'augmentation, depuis longtemps nécessaire, des taux de rémunération des détenus aux difficultés économiques actuelles et au gel des salaires dans la fonction publique constitue une position difficile à défendre. Je ne peux que recommander le réexamen de cette question en vue de remédier à la dégradation de la situation financière des détenus.

c) 1994 - 1995

Il n'y a pas eu de réexamen approfondi de cette question. Je suis tout à fait conscient des considérations relatives à « l'élaboration des politiques dans les années 90 » dont parle le Commissaire. Je reconnais également la légitimité des préoccupations soulevées par les détenus au sujet de l'érosion de leur situation financière depuis une dizaine d'années.

Ces préoccupations sont de deux ordres. Mentionnons d'abord les répercussions sur les opérations des établissements. Si la rémunération des activités autorisées n'est pas suffisante, il est évident que les détenus trouveront d'autres sources de financement pour répondre à leurs besoins quotidiens. Des taux de rémunération insuffisants favorisent et entretiennent une économie clandestine dans les établissements.

Une autre conséquence concerne la libération des détenus. Là encore, il est difficile de s'attendre à ce que des détenus qui n'ont pas une rémunération suffisante soient en mesure d'économiser assez en vue de leur libération. Il ne sert à rien de mettre en liberté des détenus qui n'ont pas l'argent nécessaire pour réussir leur réinsertion.

D'après les réponses qu'il donne sur cette question depuis une dizaine d'années, le Service reconnaît l'érosion de la situation financière des détenus, mais il n'a pas montré la volonté nécessaire pour y remédier. Il faut procéder immédiatement à un relèvement général de l'échelle de rémunération des détenus. Il faut en outre que le Service effectue un examen approfondi des répercussions de la rémunération des détenus dans le domaine des opérations des établissements et dans celui de la mise en liberté sous condition.

J'aimerais dire ceci au sujet de la composition du Comité national de révision : le Comité est l'instance décisionnelle ultime en matière de libération ou de transfert des détenus des unités spéciales de détention. Le président du Comité relève de l'instance décisionnelle qui envoie les délinquants dans les unités spéciales de détention. En outre, le président exerce son autorité à l'échelle régionale plutôt que nationale dans la mesure où il examine les décisions du superviseur de qui il relève immédiatement. Les directeurs des établissements à sécurité maximale, en leur qualité de membres du Comité, prennent les décisions au sujet de détenus dont ils peuvent avoir recommandé le placement en USD ou qui y ont été transférés à la suite d'une décision de leur superviseur immédiat. En outre, étant donné que les détenus qui sont transférés des unités spéciales de détention sont envoyés dans des établissements à sécurité maximale, ces directeurs ont un intérêt direct dans la décision qui est prise. En bref, je continue de croire que la composition actuelle du Comité national de révision laisse entière la question de l'objectivité et de l'équité des décisions qui sont prises.

Pour ce qui est des comparutions des détenus devant le Comité national de révision, sachant l'importance de la décision qui est prise et la nécessité de l'équité administrative, le Service doit se pencher sur cette question de nouveau et y remédier.

Le Service, ayant décidé de centraliser les opérations des Unités spéciales de détention au sein d'un seul établissement, doit donner une date pour ce changement et s'assurer que les programmes de cet établissement répondront aux besoins des détenus qui y seront transférés. J'ai d'autres préoccupations qui concernent plus particulièrement la santé mentale et les programmes pour les Autochtones.

2. RÉMUNÉRATION DES DÉTENUS

a) 1992-1993

J'ai soulevé la question de la rémunération des détenus dans mon rapport annuel de 1988-1989 et j'ai recommandé à l'époque que des mesures soient prises pour assurer le rajustement général des taux de rémunération afin d'atténuer l'érosion de la situation financière des détenus. J'ai ajouté que cette situation se repercutait non seulement sur le pouvoir d'achat des détenus à l'intérieur de l'établissement, mais aussi sur le solde de leur compte en banque au moment de leur mise en liberté.

Dans mon rapport de l'an dernier, je faisais observer que le nombre de plaintes à ce sujet avait augmenté, et que la situation constatée antérieurement s'était progressivement aggravée. Je conclusais en recommandant à nouveau au Service d'accorder aux détenus, dans les plus brefs délais, un rajustement majeur de leur taux de rémunération.

À la suite d'une réunion avec le Commissaire, en avril l'an dernier, qui a porté sur la question de la rémunération des détenus, j'ai écrit à M. Ingstrup. Voici un extrait de la lettre :

[Traduction]

Comme vous le savez, j'en suis convaincu, beaucoup de détenus dépensent plus quotidiennement en produits du tabac qu'ils ne gagnent par jour en travaillant. Tant les détenus que le personnel nous ont signalé que cette situation aggrave sensiblement les tensions et les activités illicites dans les établissements.

On nous a également signalé que les détenus qui ont des dettes envers d'autres détenus sont plus nombreux, tout comme ceux qui demandent protection à cause de leurs dettes, et les pratiques illicites telles que la fabrication d'alcool, le trafic de drogue et les prêts usuraires se multiplient.

J'attends que l'administration centrale fasse part de ses observations sur le rapport et de ses plans d'action. Je recommande également, outre plus de cohérence dans les décisions, que le Service veille à ce que la composition du Comité national de révision reflète la nécessité de l'objectivité et de l'équité dans les décisions que prend ce comité.

Tant que le Service n'aura pas vraiment agi en réponse à ces observations et à ces recommandations, le programme des unités spéciales de détention ne fera guère plus que de maintenir à grands frais les détenus dans leur isolement.

c) 1994 - 1995

Les sujets de préoccupation qui ont fait l'objet de plaintes de la part de détenus en ce qui concerne les unités spéciales de détention tournent autour de deux domaines interreliés.

D'abord, la capacité des unités de fournir des occasions d'emploi et des programmes d'une manière raisonnable et en temps opportun afin de répondre aux besoins constatés dans la population carcérale. Ensuite, l'objectivité et l'équité avec lesquelles le Comité national de révision exerce ses fonctions à la fois comme organisme de décision dans des cas particuliers et comme organisme responsable du suivi et de l'analyse pour ce qui est du programme des unités spéciales de détention.

Pour répondre à ces préoccupations, le Service doit :

a) déterminer précisément et répertorier les besoins de la population des unités spéciales de détention et veiller à ce que les possibilités d'emploi et de participation à des programmes répondent bien aux besoins constatés;

b) expliciter la nécessité pour le Comité national de révision, dans l'exercice de ses responsabilités liées au suivi et à l'analyse des opérations des unités, d'examiner tout particulièrement l'efficacité des programmes par rapport aux objectifs définis;

c) veiller à ce que les résultats de ce suivi et de cette analyse soient exposés en détail dans le rapport annuel sur les unités spéciales de détention et à ce que le rapport soit produit sans retard;

d) établir un Comité national de révision auquel participe la direction nationale et qui a de façon manifeste le pouvoir et l'objectivité nécessaires pour exercer ses fonctions comme il convient et d'une manière équitable;

e) indiquer dans la politique l'obligation pour le Comité de révision de donner aux détenus l'occasion, dans le cadre du processus décisionnel, de s'entretenir avec lui.

Le Service s'est récemment engagé à réduire le nombre de détenus logés dans les unités spéciales de détention et il prévoit de centraliser ses opérations dans un établissement. Il apparaît donc que c'est le temps ou jamais d'agir dans les domaines indiqués ci-dessus.

d) 1995-1996 - Situation actuelle

Les préoccupations déjà anciennes portant sur la prestation en temps opportun d'emplois et de programmes qui répondent aux besoins de la population carcérale n'ont pas encore reçu de réponse, mais le Service y voit au moyen d'une vérification interne. Dès que j'aurai pris connaissance des résultats de cette vérification, je ferai connaître mes observations en ce sens au Commissaire.

On n'a pas donné de réponse satisfaisante aux préoccupations relatives à l'objectivité et à l'équité.

J'ai indiqué dans mon rapport de 1991-1992 que le premier rapport annuel sur les unités spéciales de détention était insatisfaisant, en ajoutant :

« Afin d'accroître la pertinence des analyses dans ce secteur, le Service a normalisé la méthode d'établissement de rapports ainsi que la méthode de collecte des données statistiques concernant la gestion des USD. J'ai été informé que le Service espère que le prochain rapport sera plus détaillé et de meilleure qualité.

Le second rapport annuel sur les unités spéciales de détention, qui porte sur la période allant d'avril 1991 à mars 1992, a été rendu public le 20 novembre 1992. Le Service a déclaré que « bien qu'il ne réponde pas encore à toutes les attentes de l'Enquêteur correctionnel, le second rapport annuel est nettement supérieur au premier ».

La qualité du rapport est accessoire par rapport à la question fondamentale de la qualité du programme des unités spéciales de détention. Nous avons examiné ce programme, avec les sous-commissaires des régions du Québec et des Prairies, pour conclure qu'il ne fait que maintenir les détenus dans leur isolement. Ainsi, les programmes et les possibilités d'emploi sont limités et ont peu ou pas de rapport avec les besoins des détenus visés. Les déplacements des détenus, les contacts entre détenus ainsi que les contacts entre employés et détenus font toujours l'objet d'un contrôle excessif, en dépit des assouplissements proposés dans la nouvelle politique. Les services psychiatriques et psychologiques se réduisent généralement à des évaluations liées à la prise de décisions par le Comité national de révision des cas, et rien n'indique que des traitements et programmes répondant aux besoins définis sont offerts. Les exigences énoncées dans la politique touchant la collecte et l'analyse de données ne sont pas respectées, et le Comité ne s'acquitte pas de ses responsabilités en matière de contrôle et de supervision des opérations des unités spéciales de détention.

Ce ne sont pas nos attentes qui comptent, mais plutôt les exigences de la politique établie par le Service correctionnel du Canada. En dépit des engagements pris antérieurement, le Service n'a toujours pas évalué objectivement les opérations des unités spéciales de détention, trois ans après l'adoption de sa nouvelle politique.

Lors d'une rencontre avec le Commissaire, j'ai été avisé du fait que le troisième rapport annuel sur les unités spéciales de détention serait publié sous peu; cette année encore, le Service espère que ce rapport sera de meilleure qualité. Le Commissaire a également indiqué que la gestion des unités spéciales de détention ferait l'objet d'une vérification interne dans le courant de l'année à venir.

b) 1993 - 1994

En janvier 1994, le Service correctionnel du Canada a donné la version définitive de son rapport de vérification interne sur les unités spéciales de détention. Les observations qui y sont présentées consacrent, dans une large mesure, la légitimité des préoccupations soulevées par notre Bureau depuis trois ans. L'équipe de vérification a fait une série de recommandations où elle demande :

- l'examen approfondi et l'analyse de l'ensemble des programmes appliqués dans ces unités et ayant pour objet de répondre aux besoins constatés dans la population carcérale;
- l'élaboration d'un mandat précis pour le Comité national de révision afin d'assurer plus de cohérence dans le processus décisionnel et un meilleur contrôle des activités dans les unités spéciales de détention.

QUESTIONS FAISANT L'OBJET DE PLAINTES

1. UNITÉS SPÉCIALES DE DÉTENTION

a) 1992-1993

Ces unités, dont le niveau de sécurité est le plus élevé au sein du Service, sont réservées aux détenus que le SCC a jugé trop dangereux pour être placés dans un établissement à sécurité maximale. Il existe deux unités spéciales de détention : l'une est située à Prince-Albert, en Saskatchewan, et l'autre à Sainte-Anne-des-Plaines, au Québec. Ces unités peuvent, à elles deux, accueillir 170 détenus et en héberger actuellement 120.

En mars 1990, le Service a modifié sa politique sur les unités spéciales pour y annoncer son intention d'élaborer des programmes spéciaux pour les détenus dangereux permettant d'évaluer leurs besoins et d'y répondre, et de créer un environnement humain à leur intention, de manière à faciliter leur intégration dans un établissement à sécurité maximale.

Dans mon rapport annuel de 1989-1990, j'ai longuement parlé de l'évolution de ces unités ainsi que des inquiétudes que nous inspirent tant le principe du placement de ces détenus dans des établissements distincts que la gestion des unités elles-mêmes. Je concluais en disant :

Bien que je continue de douter de l'utilité des unités spéciales de détention, je suis d'avis que la politique actuelle constitue un progrès encourageant, conformément au souhait du Commissaire de fournir aux détenus violents des traitements et des programmes appropriés, ainsi qu'un environnement humain. Je dois cependant rappeler qu'il y a beaucoup à faire entre l'élaboration d'une politique raisonnable et la mise en oeuvre d'un programme raisonnable. Il ne faut pas oublier qu'en 1979, l'énoncé de politique sur les unités spéciales de détention prévoyait l'établissement d'installations et l'élaboration de programmes destinés aux détenus considérés comme particulièrement dangereux, afin de favoriser leur réintégration dans la population carcérale des établissements à sécurité maximale.

Au cours de la présente décennie, le Service doit se donner pour but d'évaluer objectivement non seulement la conformité des opérations des unités à sa politique établie, mais aussi l'efficacité de ces opérations par rapport à l'objectif fixé. Le rapport annuel du Comité de révision national constituera la première étape de ce processus. J'attends avec impatience la publication de ce rapport. Je pourrai alors étudier, avec le Commissaire, les conclusions et les recommandations du Comité.

L'année suivante, comme le Comité de révision n'avait pas encore publié ses conclusions, je réitérais dans mon rapport de 1990-1991 l'espoir que le Comité saurait déterminer objectivement non seulement si les opérations des unités spéciales sont conformes à la politique établie, mais aussi si ces opérations répondent effectivement aux objectifs convenus du programme.

Le Service a publié un rapport provisoire sur les unités spéciales de détention en octobre 1991 et un rapport final sur cette question en janvier 1992. La base de données sur laquelle était fondé ce rapport était incohérente et mal définie; le document ne contenait aucune analyse ni évaluation de la mesure dans laquelle le programme répondait aux besoins des détenus visés. Dans un résumé concernant le contenu de ce rapport, le Service indiquait que «comme le démontrent certaines des données statistiques présentées dans le Rapport, on doit s'entendre sur une méthode normalisée d'établissement de rapports pour que les analyses à venir soient plus instructives».

TABLEAU H (suite)
PLAINTES RÉGLÉES OU AIDE FOURNIE - PAR CATÉGORIE

Administration des peines	5	13
Personnel	11	58
Permissions de sortir	9	13
Téléphone	10	22
Transfèvements		
a) décisions	29	45
b) non sollicités	5	27
Recours à la force	1	10
Visites	22	46
<u>Cas hors mandat</u>		
Décisions de la Commission nationale des	2	9
libérations conditionnelles		
Questions relevant d'un tribunal de l'extérieur	0	2
Questions de compétence provinciale	0	5
Total	489	1 106

TABLEAU H
PLAINTES RÉGLÉES OU AIDE FOURNIE - PAR CATÉGORIE

Aide	Cas réglés	
67	27	Isolément préventif
44	24	a) placement
		b) conditions
51	21	Préparation des cas
		a) libérations conditionnelles
21	7	b) permissions de sortir
82	31	c) transfèremnts
88	53	Effets de cellule
25	13	Placement en cellule
		Réclamations
12	2	a) décisions
15	5	b) traitement
11	12	Correspondance
		Régime alimentaire
3	4	a) pour des raisons médicales
4	2	b) pour des raisons religieuses
		Discipline
1	1	a) décision d'un président de l'extérieur
0	2	b) décision relative à une infraction mineure
7	12	c) procédures
		Discrimination
15	5	Emploi
		Questions financières
17	5	a) accès
15	29	b) rémunération
4	1	Nourriture
66	22	Procédure de règlement des griefs
		Services de santé
75	28	a) accès
39	12	b) décisions
		Information
23	15	a) consultation
43	9	b) correction
		Services de santé mentale
6	0	a) accès
3	1	b) programmes
8	2	Autres questions
19	6	Placement pénitentiaire
35	20	Visites familiales privées
45	17	Programmes
7	2	Demandes d'information
4	4	Classement de sécurité

TABEAU F
ENTREVUES DES DÉTENUÉS

1995	
Avril	250
Mai	122
Juin	134
Juillet	233
Août	58
Septembre	152
Octobre	146
Novembre	138
Décembre	94
1996	
Janvier	78
Février	240
Mars	202
Total	1 847

TABEAU G
ÉTAT DES PLAINTES

Mesure	Nombre
Cas en suspens	237
Cas hors mandat (aucune mesure)	169
Plaintes prématurées	1 666
Plaintes injustifiées	673
Plaintes retirées	207
Aide fournie	1 106
Conseils fournis	519
Renseignements fournis	1 615
Cas réglés	489
Cas qu'il a été impossible de régler	113
Total	6 794

TABLEAU E
VISITES AUX ÉTABLISSEMENTS

Établissement	Nombre de visites
Archambault	7
Atlantique	5
Bath	2
Beaver Creek	2
Bowden	7
Collins Bay	4
Cowansville	10
Donnacoma	14
Dorchester	3
Drummond	6
Drumheller	5
Edmonton	6
Elbow Lake	2
Centre fédéral de formation	3
Ferndale	4
Frontenac	6
Grande-Cache	1
Joyceville	8
Kent	6
Pénitencier de Kingston	11
La Macaza	13
Leclerc	4
Matsqui	4
Millhaven	4
Mission	4
Montée Saint-François	3
Mountain	4
Pittsburgh	4
Port-Cartier	13
Prison des femmes	9
Centre psychiatrique, Pacifique	3
Centre psychiatrique, Prairies	4
Centre de réception, Québec	5
Riverbend	3
Rockwood	3
Pénitencier de la Saskatchewan	11
Springhill	4
Sainte-Anne-des-Plaines	11
Stony Mountain	8
Warkworth	4
Westmorland	3
William Head	3
Total	236

TABEAU D
PLAINTES ET POPULATION CARCÉRALE - PAR RÉGION

<u>Région</u>	<u>Plaintes</u>	<u>Nombre de détenus</u>
Pacifique	682	1 926
Prairies	1 112	3 285
Ontario	2 056	3 756
Québec	2 099	3 882
Maritimes	828	1 438
CCC	<u>17</u>	<u>380</u>
Total	6 794	14 667

TABLEAU C
PLAINTES PAR RÉGION

	Oct.	Nov.	Déc.	Jan.	Fév.	Mars	Total
259	10	14	9	12	10	72	
135	4	11	0	4	12	27	
154	8	5	3	4	2	37	
14	0	0	0	0	0	14	
7	2	3	0	0	2	0	
5	0	1	0	0	1	3	
48	1	2	3	0	1	6	
33	1	0	0	0	2	12	
108	5	5	18	5	4	7	
76	12	6	3	0	3	5	
166	7	6	11	14	6	18	
58	5	7	1	3	3	4	
49	6	0	1	3	1	6	
36	7	7	7	9	10	8	
174	15	10	13	15	42	7	
238	27	16	17	33	34	14	
285	24	15	12	29	25	20	
237	8	6	9	25	21	14	
140	11	7	15	30	11	5	
187	24	25	17	18	27	30	
294	3	5	7	4	9	2	
66	18	20	12	14	14	18	
250	11	8	6	14	16	7	
77	5	4	6	6	6	6	
60	7	3	7	6	11	3	
67	3	4	0	2	4	0	
24	0	3	0	3	1	1	

TABLEAU C (suite)
PLAINTES PAR RÉGION

Région des Prairies	Total					
	Avril	Mai	Juin	Juillet	Août	Sept.
Bowden	9	30	33	14	17	29
Drumheller	4	14	19	7	14	19
Edmonton	11	11	19	18	15	21
Etablissement pour femmes d'Edmonton	0	0	0	0	0	0
Grande-Cache	0	0	0	0	0	0
Pavillon de ressourcement	0	0	0	0	0	0
Riverbend	12	0	1	9	1	12
Rockwood	5	1	0	0	0	12
Pénitencier de la Saskatchewan	11	6	1	21	1	24
Unité spéciale de détention	13	2	3	12	0	17
Stony Mountain	11	7	7	37	8	34
Etablissements provinciaux	2	8	2	14	6	3
Centre psychiatrique régional	13	3	5	4	1	6
Québec	7	30	13	16	15	16
Archambault	47	25	14	10	15	25
Donnacoona	11	36	8	37	22	30
Drummondville	28	13	23	9	14	25
Centre fédéral de formation	9	9	12	14	6	7
La Macaza	12	25	10	14	36	11
Leclerc	21	27	40	17	24	24
Montée Saint François	7	1	5	1	9	13
Port-Cartier	39	22	46	11	16	20
Centre régional de réception	2	3	3	1	2	4
Unité spéciale de détention	4	8	3	3	5	4
Sainte-Anne-des-Plaines	12	2	5	0	9	2
Etablissements provinciaux	0	4	1	2	3	1
CCC et CRC	0	0	1	1	6	2

TABLEAU C
PLAINTES PAR RÉGION

Oct.	Nov.	Déc.	Jan.	Fév.	Mars	Total
18	4	25	12	16	19	266
51	10	21	15	19	17	244
35	6	19	18	13	23	209
38	1	2	1	4	3	76
3	2	3	4	6	9	33
17	10	4	2	6	11	105
6	6	2	3	6	2	59
38	10	9	8	19	19	194
6	0	1	3	6	1	40
22	30	10	11	29	23	258
13	31	3	23	48	13	376
62	23	21	8	14	49	302
0	6	0	0	2	1	16
13	13	22	6	6	36	197
4	3	0	9	4	2	52
41	25	25	14	65	20	392
8	5	4	0	3	4	65
0	1	0	0	0	0	1
34	1	0	7	1	0	34
1	1	0	0	1	0	7
17	36	10	52	9	8	250
4	9	3	6	9	7	68
9	33	3	3	11	6	96
6	14	4	5	8	4	95
7	3	2	3	26	0	59
0	4	3	6	20	2	69
1	0	1	0	0	0	2

TABLEAU C
PLAINTES PAR RÉGION

Région de l'Atlantique					
Atlantique	44	18	14	15	14
Dorchester	19	8	8	8	19
Springhill	10	19	13	13	10
Westmorland	6	5	2	5	3
Etablissements provinciaux	0	2	0	3	0
Région de l'Ontario					
Bath	6	12	5	13	11
Beaver Creek	2	15	3	5	6
Collins Bay	9	10	34	7	16
Frontenac	7	6	6	0	4
Joyceville	20	39	16	10	22
Pénitencier de Kingston	77	38	57	22	18
Millhaven	16	15	21	21	31
Pittsburgh	2	5	0	0	0
Prison des Femmes	7	26	10	20	16
Centre régional de traitement	20	4	2	1	2
Warkworth	38	37	31	40	37
Etablissements provinciaux	7	4	10	7	7
Région du Pacifique					
Centre correctionnel de Burnaby	0	0	0	0	0
Elbow Lake	1	1	0	13	1
Ferndale	1	1	0	1	1
Kent	8	15	5	53	19
Matsqui	1	4	4	13	2
Mission	3	4	6	9	4
Mountain	6	8	3	32	1
Centre régional de santé	1	0	1	14	1
William Head	1	3	3	22	0
Etablissements provinciaux	0	0	0	0	0

TABLEAU B

PLAINTES PAR MOIS

1995		
Avril	645	
Mai	610	
Juin	542	
Juillet	619	
Août	488	
Septembre	636	
Octobre	674	
Novembre	480	
Décembre	374	
1996		
Janvier	472	
Février	629	
Mars	625	
Total	6 794	

TABLEAU A (suite)
PLAINTES REÇUES OU EN SUSPENS - PAR CATÉGORIE

Personnel	314
Permissions de sortir	91
Téléphone	91
Transfèrements	295
a) décisions	270
b) non sollicités	57
Recours à la force	314
Visites	
Cas hors mandat	
Décisions de la Commission nationale des	147
libérations conditionnelles	
Questions relevant d'un tribunal de l'extérieur	21
Questions de compétence provinciale	41
Total	6 794

TABLÉAU A
PLAINTES REÇUES OU EN SUSPENS - PAR CATÉGORIE

117	a) placement
370	b) conditions
	Préparation des cas
323	a) libérations conditionnelles
96	b) permissions de sortir
390	c) transfèrements
425	Effets de cellule
120	Placement en cellule
	Réclamations
74	a) décisions
82	b) traitement
81	Correspondance
	Régime alimentaire
29	a) pour des raisons médicales
23	b) pour des raisons religieuses
	Discipline
28	a) décision d'un président de l'extérieur
18	b) décision relative à une infraction mineure
142	c) procédures
10	Discrimination
151	Emploi
	Questions financières
74	a) accès
237	b) rémunération
24	Nourriture
280	Procédure de règlement des griefs
	Services de santé
290	a) accès
268	b) décisions
	Information
88	a) consultation
275	b) correction
	Services de santé mentale
26	a) accès
5	b) programmes
46	Autres questions
133	Placement pénitentiaire
232	Visites familiales privées
244	Programmes
297	Demandes d'information
72	Classement de sécurité
83	Administration des peines

TABLEAUX

Etant donné la part active qu'a pris l'Enquêteur au règlement des plaintes soulevées à la Prison des femmes en avril 1994, notre participation à la Commission d'enquête et la responsabilité que nous avons d'obtenir satisfaction pour les détenues sous responsabilité fédérale, j'assurerais le suivi des constatations et des recommandations du juge Arbour auprès du ministre et du Commissaire du Service correctionnel après que nous aurons obtenu une réponse du ministre.

La loi porte également que l'Enquêteur correctionnel, lorsqu'il informe le Commissaire de l'existence d'un problème, peut faire toute recommandation qu'il juge utile. Même si de telles recommandations ne sont pas exécutées, conformément à son mandat d'ombudsman, l'Enquêteur correctionnel ne peut agir que s'il peut faire enquête méticuleusement et objectivement sur toute la gamme des mesures administratives et présenter ses constatations et recommandations à tous les décideurs intéressés, ce qui comprend le Parlement, afin d'obtenir des correctifs raisonnables si les tentatives antérieures en ce sens ont échoué.

Une étape importante de ce processus se trouve décrite à l'article 180 de la Loi qui oblige l'Enquêteur correctionnel à informer le ministre si aucune action, qui semble à l'Enquêteur correctionnel convenable et indiquée, n'est entreprise par le Commissaire dans un délai raisonnable. Les articles 192 et 193 complètent ce processus dans la mesure où ils obligent le ministre à déposer chaque chambre du Parlement, dans un délai précis, le rapport annuel et tout rapport spécial de l'Enquêteur correctionnel.

Sur le plan opérationnel, la première fonction de l'Enquêteur correctionnel consiste à faire enquête et à s'assurer qu'on donne suite aux plaintes des délinquants. L'Enquêteur correctionnel a également l'obligation d'examiner les politiques et les pratiques du Service concernant les plaintes individuelles afin de cerner les carences systémiques et y porter remède; il a également l'obligation de faire des recommandations en ce sens.

L'Enquêteur correctionnel examine toutes les plaintes qu'il reçoit et fait les recherches nécessaires pour avoir une idée nette de ces plaintes. Ces recherches faites, dans les cas où il est déterminé que la plainte n'est pas de notre ressort, nous informons le plaignant des recours qui s'offrent à lui et nous l'aidons à s'en prévaloir si nécessaire. Dans les cas qui relèvent de notre mandat, nous informons le plaignant des politiques et des pratiques du Service qui ont trait à sa plainte. Une entrevue a lieu et nous encourageons le délinquant à recourir à la procédure de règlement des griefs du Service pour obtenir satisfaction. Même si nous encourageons le recours à la procédure de règlement des griefs, ce n'est pas une condition préalable à notre intervention. Si l'on détermine au cours des recherches initiales que le délinquant ne veut pas ou ne peut pas obtenir raisonnablement satisfaction en ayant recours à la procédure de règlement des griefs, ou si la plainte fait déjà l'objet d'un examen au sein du Service, nous exerçons notre discrétion et prenons les mesures voulues pour nous assurer qu'on donne satisfaction au plaignant.

L'Enquêteur correctionnel n'est pas un agent du Service correctionnel du Canada; il ne se fait pas non plus l'avocat de tout plaignant ou groupe d'intérêts qui porte plainte. L'Enquêteur correctionnel fait enquête sur les plaintes qu'il reçoit d'un point de vue indépendant et neutre, examine soigneusement les mesures qu'a prises le Service et les motifs de ces mesures, et de là, il approuve les mesures et les explique au plaignant, ou s'il est prouvé qu'il y a eu injustice, il recommande le correctif voulu. Au cours de la dernière année, l'Enquêteur a reçu 6 794 plaintes, ses enquêteurs ont consacré 236 jours à des enquêtes dans des pénitenciers fédéraux et interviewé près de 2 000 détenus et près de 1 000 agents au niveau des établissements et des régions. Ces chiffres sont semblables à ceux de l'an dernier, et tout cela encore une fois a été fait avec un budget moindre. Nous y sommes parvenus dans une large mesure grâce à la créativité et à l'effort soutenu d'un personnel très dévoué et talentueux que je tiens à remercier publiquement.

Les plaintes portent encore sur des problèmes persistants dont nous faisons état dans les rapports annuels antérieurs. On trouvera dans la partie intitulée Tableaux la ventilation des plaintes, l'état des plaintes, des visites aux établissements et des entrevues.

L'Enquêteur correctionnel a également pris une part active à la Commission d'enquête du juge Arbour. On trouvera à l'annexe C mon *Rapport spécial* sur l'incident à la Prison des femmes en date du 14 février 1995, qui a contribué à la création de cette commission d'enquête, et à l'annexe B, le *Mémoire de* l'Enquêteur correctionnel du Canada à la Commission Arbour, phase II, Questions relatives à la politique en date du 9 janvier 1996.

OPÉRATIONS

Le 1^{er} novembre 1992 entrant en vigueur la Loi sur le système correctionnel et la mise en liberté sous condition («Loi régissant le système correctionnel, la mise en liberté sous condition et le maintien en incarcération, et portant création du Bureau de l'Enquêteur correctionnel»). La partie III de cette loi régit le fonctionnement du Bureau de l'Enquêteur correctionnel et est très semblable aux dispositions de la plupart des lois provinciales créant un poste d'ombudsman, quoique dans notre cas, notre mandat se borne à faire enquête sur les activités d'une seule entité administrative et à rendre des comptes au Parlement par l'entremise d'un seul ministre. Comme pour tous les mandats d'ombudsman, la «fonction» de l'Enquêteur correctionnel est définie à dessein dans les termes les plus larges :

«L'Enquêteur correctionnel mène des enquêtes sur les problèmes des délinquants liés aux décisions, aux recommandations, actes ou omissions qui proviennent du Commissaire ou d'une personne sous son autorité ou exerçant des fonctions en son nom qui affectent les délinquants individuellement ou en groupe.»

Une enquête peut être diligente en réponse à une plainte ou à l'initiative de l'Enquêteur correctionnel, et l'Enquêteur est seul habilité à décider s'il conduira une enquête et comment cette enquête sera conduite.

Dans le cours d'une enquête, l'Enquêteur dispose d'une autorité considérable pour exiger la production d'informations, et peut même tenir une audience officielle avec interrogatoire sous serment. L'intégrité de la fonction de l'Enquêteur est protégée, et son autorité tempérée, par la stricte obligation qu'il a de limiter la divulgation des informations recueillies dans l'exercice de ses fonctions à ce qui est nécessaire pour faire avancer l'enquête et pour motiver ses conclusions et recommandations. De plus, la divulgation d'informations à toutes les parties est régie par les considérations et dispositions de sécurité que contiennent la Loi sur la protection des renseignements personnels et la Loi sur l'accès à l'information.

Ces dispositions régissant la divulgation d'informations sont consolidées par les dispositions que contient la partie III de la Loi qui empêchent quiconque de citer l'Enquêteur à comparaître dans des poursuites judiciaires et qui affirment que nos procédures existent sans compromettre les appels ou recours devant les tribunaux ou en vertu de toute autre loi, ou être compromises par ces appels ou recours. Ces mesures visent à protéger l'intégrité de nos procédures, qu'il s'agisse d'un mécanisme de «divulgation» ou d'une obligation au titre de la procédure, que prévoient d'autres processus, toutes choses qui pourraient mettre en péril notre fonction d'ombudsman.

Les observations et constatations de l'Enquêteur correctionnel, faisant suite à une enquête, ne se limitent pas à déterminer qu'une décision, une recommandation, un acte ou une omission était contraire à la loi ou à la politique. Conformément au caractère délibérément général de son mandat d'ombudsman, l'Enquêteur correctionnel peut déterminer qu'une décision, une recommandation, un acte ou une omission était «déraisonnable, injuste, oppressant, abusivement discriminatoire, ou fondé en tout ou en partie sur une erreur de droit ou de fait»; ou qu'un pouvoir discrétionnaire a été exercé «à des fins irrégulières, pour des motifs non pertinents, compte tenu de considérations non pertinentes, ou sans fourniture de motif».

L'article 178 de la Loi porte que, si l'Enquêteur correctionnel est d'avis qu'un problème existe, le Commissaire du Service correctionnel sera informé de cette opinion et de ses motifs. L'Enquêteur correctionnel a toujours eu pour pratique de résoudre les problèmes par la consultation au niveau de l'établissement et de la région avant de les porter à l'attention du Commissaire. Même si nous allons continuer de nous adresser aux niveaux de direction compétents à l'intérieur du Service pour ce qui est du règlement des plaintes et des enquêtes, je crois que cette disposition m'oblige à porter à l'attention du Commissaire en temps opportun les «problèmes» des délinquants qui n'ont pas été résolus. Le processus de règlement des plaintes à tous les niveaux du Service s'en trouvera nécessairement accéléré.

Malheureusement, je pourrais cette année répéter presque mot pour mot les remarques que je viens de faire ou les observations que j'ai faites sur les questions faisant l'objet de plaintes. Je n'obtiendrais pas de remède à ces problèmes persistants en reformulant ce que j'en ai déjà dit ou en transmettant les nouvelles observations du Service. C'est pourquoi, dans le rapport de cette année, pour chaque question qui demeure pendante, je n'ai fait que reproduire le texte de l'an dernier, et je me suis borné dans mes observations à identifier les mesures précises qui, à mon avis, doivent être prises pour remédier raisonnablement à ces carences. De même, afin de m'assurer qu'on a un dossier public complet sur ces questions, j'ai ajouté en annexe à mon rapport de cette année :

a) L'«Aperçu de l'Enquêteur sur l'état des questions mentionnées dans le rapport annuel qui a été adressé au Service correctionnel et au cabinet du ministre en février 1996;

b) Le «Rapport intérimaire du Service correctionnel sur les questions mentionnées dans le rapport annuel que j'ai reçu le 1^{er} mai 1996.

Avant de clore cette introduction au rapport annuel de 1996, je tiens à clarifier certains points.

Premièrement, les questions dont je fais état dans mon rapport sont à mon avis extrêmement importantes, et le Service correctionnel doit y donner suite s'il veut s'acquitter de la responsabilité législative qu'il a d'assurer l'administration équitable et humaine de la peine et la réinsertion sociale des délinquants, et ce, afin de protéger la société.

Deuxièmement, je crois qu'il y a moyen de s'entendre pour trouver remède à ces problèmes si l'on a la volonté d'intervenir dans un esprit de transparence et de coopération.

Troisièmement, je sais qu'on ne trouvera un terrain d'entente et qu'on ne pourra régler ces problèmes que si les deux parties collaborent. L'Enquêteur est disposé à coopérer avec la haute administration du Service correctionnel dans ce même esprit de transparence et de coopération afin de porter remède à ces problèmes.

Enfin, je suis résolu à jouer mon rôle d'ombudsman et demeure convaincu que les dispositions de la *Loi sur le système correctionnel et la mise en liberté sous condition* permettent de régler raisonnablement la vaste majorité des problèmes individuels et les carences systémiques. Il est un élément de ce processus, dont je n'ai fait qu'un usage prudent jusqu'à ce jour, qui me permet, en marge du rapport annuel, de porter directement à l'attention du ministre les questions dont le caractère est «urgent», ou celles où le Service n'a pas pris «les mesures nécessaires ou appropriées» après un délai raisonnable. Etant donné l'importance des questions mentionnées dans le rapport annuel et le fait que le rapport annuel ne permet pas de régler les problèmes persistants, je n'aurai d'autre choix, si le Service ne prend pas les mesures immédiates et raisonnables pour régler ces problèmes, que de porter directement ces problèmes à l'attention du ministre conformément aux dispositions de la loi.

Le juge Arbour conclut plus loin : « Pour ce qui est des questions correctionnelles d'ordre général, cette enquête a révélé une absence troublante d'engagement de la part du Service correctionnel à l'égard des idéaux de la justice. [...] Rien ne permet de suggérer que le Service soit disposé ou capable de s'amender sans une orientation et un contrôle judiciaires. »

Sans vouloir limiter l'orientation et le contrôle judiciaires que recommande le juge Arbour, j'affirme, sur la foi de l'expérience que j'ai acquise au cours des dernières années, qu'il est nécessaire d'établir un mécanisme situé à mi-chemin entre l'Enquêteur correctionnel et les tribunaux, mécanisme qui serait autorisé à imposer les correctifs voulus dans les cas où il y a illégalité, injustice ou mauvaise gestion évidente. Le milieu carcéral, l'effet des décisions administratives sur les personnes vivant dans ce milieu et l'impuissance constante du Service correctionnel à remédier aux problèmes individuels et aux carences systémiques d'une manière objective, suivie et opportune, exigent la création d'une instance décisionnelle capable d'intervenir de manière opportune et énergique.

C'est pourquoi je recommande :

- a) que l'on établisse un tribunal administratif autorisé à contraindre le Service correctionnel à se conformer à la loi et à la politique régissant l'administration des peines et à remédier au tort que causerait l'inobservation de la loi et de la politique;

- b) que l'accès à ce tribunal soit autorisé dans les cas où le Commissaire du Service correctionnel ne prend pas les mesures jugées nécessaires dans un délai raisonnable faisant suite à une recommandation de l'Enquêteur correctionnel, conformément à l'article 179 de la Loi sur le système correctionnel et la mise en liberté sous condition.

Cette recommandation vise à consolider, et non à atténuer ou à modifier, le mandat qu'a l'Enquêteur de s'assurer qu'on donne suite aux préoccupations des délinquants objectivement et en temps opportun, et ce, conformément aux responsabilités que la loi impose au Service.

Pour ce qui est des carences systémiques auxquelles on tarde à remédier et dont je faisais état dans mon rapport de l'an dernier, comme je l'ai dit au début, des progrès limités ont été accomplis. J'écrivais l'an dernier : « Dans les réponses qu'il a données, le Service correctionnel a évité systématiquement d'aborder l'essentiel des questions en jeu, en ne répondant pas, par exemple, aux observations et aux recommandations précises que contenaient les rapports annuels précédents. Ces réponses témoignent d'une attitude extrêmement défensive, ne montrent guère d'appréciation pour l'évolution ou l'importance des problèmes et s'inscrivent, dans le meilleur des cas, dans une série de nouvelles promesses d'action, sans dire quoi que ce soit quant aux résultats attendus des mesures proposées ou à la façon dont ces résultats seront mesurés ou analysés. »

À fin de briser ce cycle où s'expriment, année après année, des positions polarisées sur ces questions, j'ai tenté de faire deux choses dans le rapport annuel de l'an dernier. Tout d'abord, j'ai voulu donner un aperçu détaillé de l'évolution de ces questions qui tardent à être réglées, et ce, en donnant une idée juste des observations faites par le Service correctionnel et des engagements qu'il a pris. Ensuite, j'ai mis en lumière des carences précises relativement à ces questions dans l'espoir de susciter des correctifs. Le rapport de l'an dernier se concluait ainsi : « Pour accorder à ces questions toute l'attention voulue, le Service doit s'occuper des questions particulières exposées dans les rapports annuels et renoncer à l'habitude qu'il a d'aborder les questions de manière trop générale, tout en les considérant isolément. J'espère qu'en mettant l'accent sur les problèmes particuliers, il sera plus facile non seulement d'accorder l'attention voulue à ces préoccupations systémiques, mais aussi de répondre sans retard et de façon appropriée aux préoccupations individuelles des détenus. »

INTRODUCTION

Un optimisme prudent inspire la rédaction de ce rapport car, en dépit du fait que des progrès limités ont été accomplis dans la plupart des domaines dont il est question ici, l'administration centrale du Service correctionnel s'est montrée lente à réagir et son attitude est restée défensive et circonspecte. Le rapport de la *Commission d'enquête sur certains événements survenus à la prison des femmes de Kingston* et la réaction ministérielle à ce rapport permettent d'espérer des changements positifs au sein des services correctionnels fédéraux.

Tous ceux qui s'intéressent au Service correctionnel et tous les responsables trouveront dans le rapport de la Commission l'orientation nette qu'il faut imprimer au changement. Ce changement n'aboutira que si l'on prend les mesures voulues pour remédier à la «culture de défense déplorable» qui guide le Service correctionnel. Comme l'a dit le Commissaire Arbour, cette culture a fait que, beaucoup trop souvent, «on a nié les erreurs, on s'est défendu contre la critique et on a réagi sans vérifier si elle était fondée ou non».

L'Enquêteur correctionnel est l'ombudsman attiré du Service correctionnel du Canada. Comme le veut l'article 167 de la *Loi sur le système correctionnel et la mise en liberté sous condition*, l'Enquêteur correctionnel a pour mandat de mener «des enquêtes sur les problèmes des délinquants liés aux décisions, recommandations, actes ou omissions qui proviennent du Commissaire ou d'une personne sous son autorité ou exerçant des fonctions en son nom qui affectent les délinquants individuellement ou en groupe». Outre l'indépendance et l'accès illimité à l'information dont il doit jouir dans la conduite de ses enquêtes, l'Enquêteur ne peut s'acquitter de son mandat d'ombudsman que s'il peut faire des recommandations et rendre compte publiquement de la mise en oeuvre de ces mêmes recommandations. À la partie intitulée *Opérations* de mon rapport, je donne un aperçu des dispositions législatives qui régissent mes fonctions.

Dans un tel cadre, l'Enquêteur n'exerce son autorité que s'il peut enquêter méticuleusement et objectivement sur toute la gamme des mesures administratives prises par le Service correctionnel, et faire connaître ses constatations et ses recommandations en premier lieu au Service correctionnel du Canada. Dans les cas où le Service correctionnel du Canada ne donne pas suite aux constatations et recommandations de l'Enquêteur, la question est portée à l'attention du ministre, et elle est portée de là à l'attention du Parlement et du public, généralement par l'entremise du rapport annuel. Ainsi, l'enquêteur ne peut instaurer l'équité administrative et l'obligation de rendre compte voulues au sein du Service correctionnel que si l'on donne à ces constatations et recommandations l'attention empressée qu'elles méritent.

Comme en témoignent mes rapports annuels antérieurs, le Service correctionnel s'est montré sourd à mes recommandations au cours des quelques dernières années. Commentant l'obligation de rendre compte au sein du Service correctionnel et le rôle de l'Enquêteur, le juge Arbour a dit ceci :

À mon avis, il est clair que le mandat dont la loi investit l'Enquêteur correctionnel devrait continuer d'être soutenu et facilité. Parmi tous les observateurs indépendants du Service correctionnel, l'Enquêteur correctionnel se trouve dans une situation unique; il peut à la fois faciliter la résolution de problèmes individuels et faire des déclarations publiques sur les carences systémiques du Service. De tous les mécanismes ou organismes internes et externes visant à rendre le Service correctionnel ouvert et imputable, le Bureau de l'Enquêteur correctionnel est de loin le plus efficace et le mieux équipé pour exécuter cette fonction. Ce n'est qu'en raison de l'incapacité de l'Enquêteur correctionnel par ses conclusions de contraindre l'application de la loi par le Service et de l'absence de volonté manifeste du Service de l'accepter spontanément par de nombreuses instances, que je recommande un meilleur accès des détenus aux tribunaux en faveur de l'application efficace de leurs droits et du respect de la primauté du droit.

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Le 28 juin 1996

L'honorable Herb Gray
Solliciteur général du Canada
Chambre des communes
Rue Wellington
Ottawa (Ont.)

Monsieur le Solliciteur général,

Conformément aux dispositions de l'article 192 de la Loi sur le système
correctionnel et la mise en liberté sous condition, j'ai le devoir et l'honneur de
vous soumettre le vingt-troisième rapport annuel de l'Enquêteur correctionnel.
Veuillez agréer, Monsieur le Solliciteur général, l'expression de mes
sentiments distingués.

L'Enquêteur correctionnel,

R.L. Stewart

Rapport annuel
de
l'Enquêteur
correctionnel

1995-1996

Rapport annuel de l'Enquêteur correctionnel 1995 - 1996



